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TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1889.

No. 258.

THE UNITED STATES, PLAINTIFF IN ERROR,

vs.

ROBERT BATES KINGSBURY, WILLIAM J. PHILLIPS, RICHARD N. LANE, AND SIMON MUSSINA.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF TEXAS.

FILED NOVEMBER 3, 1886.

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1 In the honorable United States circuit court for the 5th circuit and western district of Texas, holding sessions at the city of Brownsville in said district, at its April term, A. D. 1881.

And now comes the United States, by her attorney, and before your honors, judges of said court, and complains of one William Joseph Phillips, who is a resident citizen of Wharton County and eastern district of Texas, and one Charles Worthington, who is a resident citizen of the county of Nuesces and the western district of Texas, and one Richard N. Lane, who is a resident citizen of Travis County, Texas, in the western district of Texas, and one Samuel F. Barr, who is a non-resident of Texas, and one Simon Mussina, who is a resident citizen of Galveston County, Texas, and one Robert Bates Kingsbury, who is a resident citizen of the county of Cameron, and State and western district of Texas, and so complaining the plaintiff would most respectfully represent, that on the 8th day of July, 1865, the said Rob't Bates Kingsbury was collector of internal revenue for the second district of Texas; and that upon that day he, the said Rob't Bates Kingsbury as principal and the said Phillips, Worthington, Lane, Barr, and Mussina as sureties, did make, execute, and deliver to plaintiff their joint and several bond or obligation, in the sum of fifty thousand dollars, conditioned among other things as follows: "Whereas the President of the United States hath, pursuant to law, appointed the said Rob't Bates Kingsbury collector of taxes,

2 under an act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes; now, therefore, if the said Robert Bates Kingsbury shall truly and faithfully execute and discharge all the duties of the said office according to law, and shall justly and faithfully account for, and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and if each and every deputy collector appointed by said collector shall truly and faithfully execute and discharge all the duties of said deputy collector, according to law, then the above obligation to be void and of no effect, otherwise it shall abide and remain in full force and virtue."

And plaintiff says that the said Rob't Bates Kingsbury has committed a breach of his said aforesaid bond and the conditions thereof, and an action of law has accrued to her as follows, to wit: From and after the said 25th day of July, 1865, and during his continuance in office under said obligation aforesaid, there come into the hands of the said Kingsbury, by virtue of his office, large sums of money, the property of plaintiff, of great value, from taxes collected, stamps sold, and other sources, but which sums of money he, the said Rob't Bates Kingsbury, has failed, neglected, and refused to pay over to plaintiff, as bound to do by virtue of his office and bond aforesaid, to the damage of plaintiff thirty thousand dollars.

3 Plaintiff more specifically avers that among the moneys specified above as collected by and coming into the hands of the said Robert Bates Kingsbury, by virtue of his office, is and was the sum of fourteen thousand one hundred and seventy dollars and twenty cents ($14,170.20), arising from taxes collected by him in person and by his deputies, and

from stamps sold by him, and other sources, and which sum he the said Kingsbury, by virtue of his office and bond, was bound to pay to plaintiff, but to pay the same, or any part thereof, he has failed as aforesaid.

Plaintiff avers that upon a full and fair adjustment of the accounts of him, the said Kingsbury, in the proper department at Washington, as provided by law, there is found the said aforesaid sum of $14,170.20, as a Treasury balance due plaintiff from the said Kingsbury.

Premises fully considered, the plaintiff prays citation for defendants, to their several districts, and for judgment for pl'ff for said $14,170.20, and for interest at the rate of six per cent. from the time said sum should have been paid into the Treasury until now, and for all costs, &c., &c.

ANDREW J. EVANS,
Attorney of U. S. for the Western District of Texas.

(Endorsed in the following words, to wit:) No. 230—Law. United States vs. Robert Bates Kingsbury, William Joseph Phillips, Charles Worthington, Richard N. Lane, Sam'l F. Barr, Simon Mussina.

Original petition. Filed Feb'y 28, 1881. T. J. Parker, cl'k U. S. cir. W. D. T., at B'ville. Filed this 31 day of July, A. D. 1885. Sam. Hopkins, clerk circuit court.

4 THE UNITED STATES OF AMERICA,
Western District of Texas, 5th circuit, at Brownsville:

The President of the United States of America to the marshal of the western district of Texas, greeting:

You are hereby commanded to summon Charles Worthington, of Nueces County, in the western district of Texas, if he be found in your district, to be and appear before the hon., the circuit court of the United States for the western district of Texas, holding its sessions at the city of Brownsville in said district, at the next term thereof, to be begun and holden on the 4th Tuesday in the month of April A. D. 1881, it being the 26th day of said month and year, then and there to answer to the petition of the United States of America, filed in said court, against Robert Bates Kingsbury, William Joseph Phillips, Charles Worthington, Richard N. Lane, Sam'l F. Barr, and Simon Mussina, of which petition you will serve the said Charles Worthington with the accompanying certified copy, together with a copy of this writ.

Herein fail not, but of this writ make due return and how you have executed the same.

Witness the Hon. Morrison R. Waite, Chief-Justice of the Supreme Court of the United States and the seal of this court, this 11th day of March A. D. 1881, and the 105th year of the Independence of the United States of America.

5 [SEAL.] T. J. PARKER,
Cl'k U. S. Cir. C't, West'n Dist. Texas, 5th Circuit, at Brownsville.

(Endorsed in the following words, to wit:) No. 230. Law. In U. S. cir. c't, W. D. T., 5th circ't, at Brownsville. The United States vs. Robert Bates Kingsley et als. Citation. Issued this 11th day of March, A. D. 1881. F. J. Parker, clerk.

Filed this 31st day of July A. D. 1885. Sam Hopkins, clerk of the circuit court. I certify that this writ is a copy of a writ sued out of the United States circuit court for the 5th circuit and west. dist. of Texas, at Brownsville. A. J. Evans, U. S. att'y. San Antonio, March 18, 1881. Received March 15, 1881. The defendant Charles Worthington not found in my district, March 24, 1881. Stillwell H. Russell U. S. M., by W. M. McMaster, dep.

6 THE UNITED STATES OF AMERICA,
West. District of Texas, 5th Circuit, at Brownsville:

The President of the United States of America to the marshal of the western district of Texas, greeting:

You are hereby commanded to summon Robert Bates Kingsbury, of Brownsville, Cameron County, Texas, if to be found in your district, to be and appear before the hon. the circuit court of the United States for the western district of Texas, holding its sessions at the city of Brownsville, in said district, at the next term thereof, to be begun and holden on the 4th Tuesday in the month of April, A. D. 1881, it being the 26th day of said month and year, then and there to answer to the petition of the United States of America, filed in said court against Robert Bates Kingsbury, William Joseph Phillips, Charles Worthington, Richard N. Lane, Sam'l F. Barr, and Simon Mussina, of which petition you will serve the said Robert Bates Kingsbury with the accompanying certified copy, together with a copy of this writ. Herein fail not, but of this writ make due return and how you have executed the same.

Witness the Hon. Morrison R. Waite, Chief-Justice of the Supreme Court of the United States and the seal of this court, this 11th day of March, A. D. 1881, and the 105th year of the Independence of the U. S. of America.

T. J. PARKER,
Clk U. S. Cir. C't, West. Dist. Tex., 5th Circ't, at Brownsville.

7 (Endorsed in the following words, to wit:) No. 230. Law. In U. S. Cir. Ct. W. D. T., 5th cir., at Brownsville. The United States vs. Robert Bates Kingsbury et als. Citation. Issued this 11th day of March, A. D. 1881. F. J. Parker, clerk. Ret'd & filed Mar. 15th, 1881. F. J. Parker, clerk. Filed this 31 day of July, A. D. 1885. Sam Hopkins, clerk circuit court. Received March 11th, 1881, and exectued March 15th, 1881, at Brownsville, by delivering to Robert Bates Kingsbury a copy of this writ, and a copy of the original petition as within commanded. F. H. Russell, U. S. marshal W. D. Tx. By T. B. Russell, d'y.

THE UNITED STATES OF AMERICA,
Western District of Texas, 5th Circuit at Brownsville.

The President of the United States of America to the marshal of the eastern district of Texas, greeting:

You are hereby commanded to summon William Joseph Phillips, of Wharton County, in the eastern district of Texas, if to be found in your

district, to be and appear before the hon. the circuit court of the United States, for the western district of Texas, holding its sessions at the city of Brownsville, in said district, at the next term thereof, to be begun and holden on the 4th Tuesday in the month of April, A. D. 1881, it being the 26th day of said month and year, then and there to answer to the petition of the United States of America, filed in said court, against Robert Bates Kingsbury, William Joseph Phillips, Charles Worthington,
8 Richard N. Lane, Sam'l F. Barr, and Simon Mussina, of which petition you will serve the said William Joseph Phillips, with the accompanying certified copy together with a copy of this writ.

Herein fail not, but of this writ make due return and how you have executed the same.

Witness the Hon. Morrison R. Waite, Chief Justice of the Supreme Court of the United States and the seal of this court, this 11th day of March, A. D. 1881, and the 105th year of the independence of the United States of America.

[SEAL.] F. J. PARKER,
Clk U. S. Cir. Ct. West'n Dist. Texas, 5th Circuit, at Brownsville.

(Endorsed in the following words, to wit:) No. 230. Law. In U. S. Cir. Ct. W. D. T., 5th Circ't, at Brownsville. The United States vs. Robert Bates Kingsbury et als. Citation. Issued this 11th day of March, A. D. 1881. F. J. Parker, cl'k. Filed this 31 day of July, A. D. 1885. Sam Hopkins, clerk circuit court. Rec'd this writ —— day of March, 1881, and executed the same on the 23d day of April, 1881, by delivering to the defendant in person a certified copy of this writ, also certified copy of petition, this 23d day of April, 1881. W. J. Phillips, U. S. marshal. Per B. M. Phillips, deputy.

9 THE UNITED STATES OF AMERICA,
Western District of Texas, 5th Circuit, at Brownsville:

The President of the United States to the marshal of the western district of Texas, greeting:

You are hereby commanded to summon Charles Worthington, of Nueces County, in the western district of Texas, if to be found in your district, to be and appear before the hon. the circuit court of the United States for the western district of Texas, holding its sessions at the city of Brownsville, in said district, at the next term thereof, to be begun and holden on the 4th Tuesday in the month of April, A. D. 1881, it being the 26th day of said month and year, then and there to answer to the petition of the United States of America, filed in said court, against Robert Bates Kingsbury, William Joseph Phillips, Charles Worthington, Richard N. Lane, Sam'l F. Barr, and Simon Mussina, of which petition you will serve the said Charles Worthington with the accompanying certified copy, together with a copy of this writ.

Herein fail not, but of this writ make due return and how you have executed the same.

Witness the Hon. Morrison R. Waite, Chief-Justice of the Supreme

Court of the United States, and the seal of this court, this 11th
10 day of March, A. D. 1881, and the 105th year of the Independence of the United States of America.

F. J. PARKER,
Cl'k U. S. Cir. C't, West'n Dist. Texas, 5th Circuit, at Brownsville.

A true copy. I certify.

F. J. PARKER,
Cl'k U. S. Cir. C't, W. D. T., 5th Circ't, at Brownsville.

(Endorsed in the following words, to wit:) No. 230. Law. U. S. circ't c't, W. D. T., 5th circ't, at Brownsville. The United States vs. Robert Bates Kingsbury et als. Citation. Issued this 11th day of March, A. D. 1881. F. J. Parker, clerk. Certified copy. I certify that this writ is a copy of a writ sued out of the United States circuit court for the 5th circuit and western district of Texas, at Brownsville, Texas. A. J. Evans, U. S. att'y. San Antonio, March 18th, A. D. 1881. Filed this 31 day of July, A. D. 1885. Sam Hopkins, clerk circuit court.

11 THE UNITED STATES OF AMERICA,
Western District of Texas, 5th Circuit, at Brownsville:

The President of the United States of America to the marshal of the eastern district of Texas, greeting:

You are hereby commanded to summon Simon Mussina, of Galveston County, in the eastern district of Texas, if to be found in your district, to be and appear before the hon. the circuit court of the United States for the western district of Texas holding sessions at the city of Brownsville, in said district, at the next term thereof, to be begun and holden on the 4th Tuesday in the month of April, A. D. 1881, it being the 26th day of said month and year, then and there to answer to the petition of the United States of America, filed in said court, against Robert Bates Kingsbury, William Joseph Phillips, Charles Worthington, Richard N. Lane, Sam'l F. Barr, and Simon Mussina, of which petition you will serve the said Simon Mussina with the accompanying certified copy, together with a copy of this writ.

Herein fail not, but of this writ make due return and how you have executed the same.

Witness, the Hon. Morrison R. Waite, Chief-Justice of the Supreme Court of the United States, and the seal of this court, this 11th
12 day of March, A. D. 1881, and the 105th year of the Independence of the United States of America.

F. J. PARKER,
Cl'k U. S. Circ't C't, West'n Dist. Texas, 5th Circuit, at Brownsville.

A true copy. I certify.

F. J. PARKER,
Cl'k U. S. Cir. C't, W. D. T., 5th Circuit, at Brownsville.

(Endorsed in the following words, to wit:) No. 230. Law. In U. S. Cir. C't, W. D. T., 5th Circ't, at Brownsville. The United States vs. Robert Bates Kingsbury et als. Citation. Issued this 11th day of March A. D.

1881. F. J. Parker, clerk. Certified copy rec'd —— day of March, 1881, and return the same not executed, the defendant S. Mussina could not be found in my district, this 23 day of April, 1881. W. J. Phillips, U. S. marshal. Filed this 31 day of July, A. D. 1885. Sam Hopkins, clerk circuit court.

13 THE UNITED STATES OF AMERICA,
Western District of Texas, 5th Circuit, at Brownsville:

The President of the United States to the marshal of the western district of Texas, greeting:

You are hereby commanded to summon Richard N. Lane, of Travis County, in the western district of Texas, if to be found in your district, to be and appear before the hon. the circuit court of the United States for the western district of Texas, holding its sessions at the city of Brownsville, in said district, at the next term thereof, to be begun and holden on the 4th Tuesday in the month of April, A. D. 1881, it being the 26th day of said month and year, then and there to answer to the petition of the United States of America, filed in said court, against Robert Bates Kingsbury, William Joseph Phillips, Charles Worthington, Richard N. Lane, Sam'l F. Barr, and Simon Mussina, of which petition you will serve the said Richard N. Lane with the accompanying certified copy, together with a copy of this writ.

Herein fail not, but of this writ make due return and how you have executed the same.

Witness the Hon. Morrison R. Waite, Chief-Justice of the Su-
14 preme Court of the United States, and the seal of this court, this 11th day of March, A. D. 1881, and the 105th year of the Independence of the United States of America.

F. J. PARKER,
Cl'k U. S. Cir. C't, West'n Dist. Texas, 5th Circuit, at Brownsville.

(Endorsed in the following words to wit:) In U. S. cir. c't, W. D. T., 5th circ't, at Brownsville. The United States vs. Robert Bates Kingsbury et als. Citation. Issued this 11th day of March, A. D. 1881. F. J. Parker, clerk. I certify that this writ is a copy of a writ sued out of the United States circuit court for the 5th circuit and western district of Texas, at Brownsville. A. J. Evans, U. S. attorney. Filed this 31 day of July, A. D. 1885. Sam Hopkins, cl'k circuit court.

15 THE UNITED STATES OF AMERICA,
Western District of Texas, 5th Circuit, at Brownsville:

The President of the United States of America to the marshal of the western district of Texas, greeting:

You are hereby commanded to summon Richard N. Lane, of Travis County, in the western district of Texas, if to be found in your district, to be and appear before the hon. the circuit court of the United States for the western district of Texas, holding its sessions at the city of Brownsville, in said district, at the next term thereof to be begun and held on the 4th Tuesday in the month of April, A. D. 1881, it being the 26th

day of said month and year, then and there to answer the petition of the United States of America, filed in said court, against Robert Bates Kingsbury, William Joseph Phillips, Charles Worthington, Richard N. Lane, Sam'l F. Barr, and Simon Mussina, of which petition you will serve the said Richard N. Lane with the accompanying certified copy, together with a copy of this writ.

Herein fail not, but of this writ make due return, and how you have executed the same.

Witness, the Hon. Morrison R. Waite, Chief-Justice of the Supreme Court of the United States, and the seal of this court, this 11th
16 day of March, A. D. 1881, and the 105th year of the Independence of the United States of America.

T. J. PARKER,
Clk U. S. Cir. Ct. West'n Dist. Texas, 5th Circuit, at Brownsville.

(Endorsed in the following words, to wit:) No. 230. Law. In U. S. cir. ct., W. D. T., at Brownsville. The United States vs. Robert Bates Kingsbury et als. Citation. Issued this 11 day of March, A. D. 1881. T. J. Parker, clerk. Filed this 31 day of July, A. D. 1885. Sam Hopkins, clerk of circuit court. I certify that this writ is a copy of a writ sued out of the United States circuit court for the 5th circuit and western district of Texas, at Brownsville. A. J. Evans, U. S. attorney.

17 (Original.)

THE UNITED STATES OF AMERICA,
Western District of Texas, 5th Circuit, at Brownsville:

The President of the United States of America to the marshal of the western district of Texas, greeting:

You are hereby commanded to summon Robert Bates Kingsbury, of Brownsville, Cameron County, Texas, if to be found in your district, to be and appear before the hon. the circuit court of the United States for the western district of Texas, holding its sessions at the city of Brownsville, in said district, at the next term thereof, to be begun and holden on the 4th Tuesday in the month of April, A. D. 1881, it being the 26th day of said month and year, then and there to answer to the petition of the United States of America filed in said court against Robert Bates Kingsbury, William Joseph Phillips, Charles Worthington, Richard N. Lane, Sam'l F. Barr, and Simon Mussina, of which petition you will serve the said Robert Bates Kingsbury with the accompanying certified copy, together with a copy of this writ.

Herein fail not, but of this writ make due return and how you have executed the same.

Witness, the Hon. Morrison R. Waite, Chief-Justice of the
18 Supreme Court of the United States, and the seal of this court this 11th day of March, A. D. 1881, and the 105th year of the Independence of the U. S. of America.

[SEAL.] F. J. PARKER,
Clk U. S. Cir. Ct. West'n Dist. Tex., 5th Circ't, at Brownsville.

(Endorsed in the following words, to wit:) No. 230. Law. In U. S. cir. ct. W. D. T., 5th cir., at Brownsville. The United States vs. Rob-

ert Bates Kingsbury, et als. Citation. Issued this 11th day of March, A. D. 1881. F. J. Parker, clerk. Ret'd and filed Mar. 15th, 1881 F. J. Parker, clerk. Filed this 31 day of July, A. D. 1885. Sam Hopkins, clerk circuit court. Received March 11th, 1881, and executed March 15th, 1881, at Brownsville, by delivering to Robert Bates Kingsbury a copy of this writ and a copy of the original petition as within commanded. S. H. Russell, U. S. marshal, W. D. Tex. By T. B. Russel, d'y.

19 In the circuit court of the United States, 5th circuit, western district of Texas, at Brownsville.

THE UNITED STATES
vs. } No. 230. Law.
ROBERT BATES KINGSBURY ET ALS.

And now comes Robert Bates Kingsbury, one of the defendants in the above cause, by his attorneys, and says that the plaintiff's petition is insufficient in law, and shows no cause of action against this defendant to compel him to answer thereto. Whereof he prays judgment of the court that said petition be dismissed and for his costs, &c.

POWERS & WELLS,
Attorneys for Defendant R. B. Kingsbury.

And now again comes the said defendant, R. B. Kingsbury, solely in the event of his foregoing plea being overruled, and specially reserving all benefit of the same, and says that the plaintiff's petition is insufficient in law, because—

1. The same is vague and uncertain, and does not show with the certainty required by law when or how this defendant so became liable, as charged therein.

2. Because this defendant thereby is not put upon his proof as to the date of the collection of or to what class of taxes belong the amount which he is charged in said petition of appropriating or failing to pay over. Wherefore defendant prays judgment of this court thereon, and that said petition is dismissed, and for his costs, &c.

POWERS & WELLS,
Attorneys for Defendant R. B. Kingsbury.

20 And now again comes the said defendant, R. B. Kingsbury, solely in the event of his foregoing pleas being overruled, and specially reserving all benefit of the same, and denies all and singular the allegations in the plaintiff's petition contained, and demands strict proof of the same. And of this he puts himself upon the country.

POWERS & WELLS,
Attorneys for Defendant R. B. Kingsbury.

(Endorsed in the following words, to wit:) No. 230. Law. The United States vs. Robert Bates Kingsbury et als. Defendant Kingsbury's original answer. Filed May 5, 1881. D. Beall, clerk. Filed this 31 day of July, A. D. 1885. Sam Hopkins, clerk circuit court.

In U. S. circuit court, 5th circuit, western dist. of Texas, at Brownsville.

THE U. STATES
vs.
ROBERT BATES KINGSBURY ET ALS. } No. 230. LAW.

Now comes Richard N. Lane, one of the defts. hereto, & says that the plaintiff's petition herein is insufficient in the law for the plaintiffs hereto to have & maintain their action in this behalf against him. Wherefore he prays the judg't of the court to be herein dismissed with his costs.

POWERS & WELLS,
Atty's for Deft. Lane.

And now again comes the said deft. Rich'd N. Lane, by his atty's, Powers & Wells, in the event that his preceding demurrer is overruled, & only in that event, & further says that the plaintiff's petition
21 herein is insufficient in the law for the said plffs. to have their action in this behalf against him, & he assigns the following causes of special demurrer:

1. The said petition is vague & uncertain & does not show with sufficient certainty when & how the deft. Kingsbury became liable as charged in said petition, nor upon which branch of the different accounts said Kingsbury was by law required to keep as collector of internal revenue as charged.

2. The said petition sets forth no detailed statement of said Kingsbury's accounts, showing what funds or what class of funds in virtue of his said office of internal-revenue collector the said Kingsbury has failed to pay over or account for, nor does said petition specify the date when any of such funds should have been received by the said Kingsbury in virtue of his said office as such collector, nor what portion of such delinquent amounts alleged to rest with said Kingsbury is for uncollected taxes during his term of office or left uncollected on his retiring from said office.

Wherefore this deft. prays judg't to be herein dismissed with his costs.

POWERS & WELLS,
Atty's for Deft. Lane.

And now again comes the said def't Richard N. Lane, & without waiving his foregoing exceptions & demurrers, & only in the event that they shall be overruled, separately answering herein, says that he denies all & singular the allegations & averments in the pl'ff's petition herein contained. Wherefore this def't prays judgment to be herein dismissed with costs.

22 And for further answer this def't says that the principal def't herein, the said Kingsbury, was, on the twenty-first day of June, A. D. 1865, commissioned as collector of internal revenue for the second district of Texas by the President of the United States, said commission to last & hold until the end of the then next session of the Senate of the United States, & no longer, and that the end of such session of the said Senate took place on the twenty-eighth day of July, A. D. 1866.

That said Kingsbury, at the date of his said commission as such col-

lector of internal revenue as aforesaid, was disqualified by law from holding & exercising said office & did not nor could take the oath of office prescribed by the law of Congress in force at that time, entitled "An act "to prescribe an oath of office, and for other purposes," approved July 2d, 1862, and so this def't says that the said Kingsbury never legally qualified in & for said office, and that if this def't ever signed any obligation in this behalf as alleged in the said pl'ff's petition herein, which is not admitted, the same was , utterly without legal consideration, & so far as this def't is concerned is & from the beginning was null & void in the law, which this def't is ready to verify.

Wherefore this def't prays judgment, &c.

And this def't further says that pursuant to the law of Congress entitled "An act to reduce internal taxation, and to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved
23 June thirtieth, eighteen hundred and sixty-four, and acts amendatory thereof," approved July 13, 1866, & especially to section nine of said act, as laid down on page one hundred & ten of volume fourteen of the United States Statutes at Large, Little, Brown & Company's edition, the said principal def't, Kingsbury, did, on or about the 16th day of December, A. D. 1867, account to & with the proper accounting officers of the Treasury Department of the United States in the manner & form prescribed in the said act of Congress, of & concerning the several & various accounts had by the said Kingsbury in respect of the said office of collector of internal revenue, as alleged by said pl'ff's to have been held by him, wherein & whereby the said def't Kingsbury was found not to be indebted to the said p'lffs in respect to said office of collector of internal revenue, and in evidence of such fact the Commissioner of Internal Revenue then & there certified to the First Comptroller of the Treasury that the said def't Kingsbury had use' due diligence to entitle him to the credits upon his accounts as collector of internal revenue, as provided in said section nine of the said act of Congress, which facts in thereof are proved to the satisfaction of the said Commissioner of Internal Revenue; and that in consequence of said certificate of diligence on the part of said def't Kingsbury as such collector of internal revenue as aforesaid, the proper officers of the said Treasury Department did then and there pay to the said def't Kingsbury all his salary,
24 commissions, perquisites, and allowances that had accrued to him up to the date of such accounting, & which up to that time had been withheld of payment, because and in consequence of the said def't Kingsbury not having taken the said legal oath of office, & because, also, that he had not sooner settled & adjusted his accounts as such collector, & thus proving himself entitled thereto under the law which forbids payment to any person having been previously an officer of the United States & who shall be found to be in arrears to the Government of the same; all of which several matters & things herein alleged this def't is ready to verify. Wherefore he prays judg't to be herein dismissed with his costs.

And for further answer in this behalf this def't says & alleges that the term of office of said principal def't, Kingsbury, expired on the aforesaid date of twenty-eighth day of July, A. D. 1866; & this def't, saving to

himself the benefit of each & all of his foregoing defences, says & alleges that he is not liable or responsible on any obligation set forth in pl'ff's petition herein, if such there be, which is not admitted, for or on account of any act or omission of the said principal def't, Kingsbury, in respect of the said alleged office employment of said Kingsbury, as set forth in pl'ffs' petition herein, subsequent to the said date. Wherefore this def't prays the judg't of this hon. court, to be herein dismissed with his costs, & for all general relief to which in law & justice he may be found entitled.

POWERS & WELLS,
Def'ts' Att'ys.

25 (Endorsed in the following words, to wit:) No. 230. Law. The United States vs. R. B. Kingsbury & others. Orig'l answer of R. N. Lane, def't. Filed May 12, 1881. D. Beall, clerk. Filed this 31 day of July, A. D. 1881. Sam Hopkins, clerk circuit court.

In circuit court of the United States, 5th circuit, western district of Texas, at Brownsville.

THE UNITED STATES
vs.
ROB'T B. KINGSBURY AND OTHERS. } No. 230. Law.

Now comes Robert B. Kingsbury, one of the defendants hereto, leave of the court being first obtained, and amends his original answer, filed herein on the 5th day of May, A. D. 1881; and so amending says:

That the plaintiffs' petition herein is insufficient in the law for the plaintiff hereto to have and maintain their action in this behalf against him. Wherefore he prays the judgment of the court, to be herein dismissed with his costs.

POWERS & WELLS,
Attorneys for Def'd't Kingsbury.

And now again comes the said defendant, Robert B. Kingsbury, by his attorneys, Powers & Wells, in the event of his foregoing demurrer being overruled, and only in that event, and further says that the plaintiffs' petition herein is insufficient in the law for the said plaintiff to have and maintain their action in this behalf against him, and he assigns the following causes of special demurrer:

26 1st. The said petition is vague and uncertain and does not show with sufficient certainty when and how the defendant Kingsbury became liable as charged in said petition, nor upon which branch of the different accounts said Kingsbury was by law required to keep as collector of internal revenue, as charged.

2nd. The said petition sets forth no detailed statement of his, the said Kingsbury's, accounts, showing what funds, or which class of funds, in virtue of his said office of internal revenue collector, he, the said Kingsbury, has failed to pay over or account for. Nor does said petition specify the dates when any of such funds should have been received by him, the said Kingsbury, in virtue of his said office as such collector, nor what portion of such delinquent amount alleged to rest with him, the said Kings-

bury, is for uncollected taxes during his term of office, or left uncollected on his retiring from said office.

Wherefore this defendant prays judgment, to be herein dismissed with his costs.

POWERS & WELLS,
Att'ys for Defendant Kingsbury.

And now again comes the said defendant, Robert B. Kingsbury, and without waiving his foregoing exceptions and demurrers, and only in the event that they shall be overruled, separately answering herein, says that he denies all and singular the allegations and averments in the plaintiff's petition herein contained; wherefore this defendant prays judgment, to be herein dismissed with his costs, &c., &c.

27 And further answering, this defendant says that he was commissioned on the twenty-first day of June, A. D. 1865, as collector of internal revenue for the second district of Texas, by the President of the United States, said commission to last and hold until the end of the then next session of the Senate of the United States and no longer, and that the end of such session of the said Senate took place on the twenty-eighth day of July, A. D. 1866.

That the defendant Kingsbury, at the date of his said commission as such collector of internal revenue as aforesaid, was disqualifed by the law from holding and exercising said office, and did not nor could take the oath of office prescribed by the law of Congress in force at that time, entitled "An act to prescribe an oath of office and for other purposes," approved July 2nd, 1862.

And so this defendant says that he never legally qualified in and for said office, and that if he ever signed any obligation in this behalf, as alleged in the said plaintiff's petition herein, which is not admitted, the same was nudum pactum, utterly without legal consideration, and so far as this defendant is concerned is and from the beginning was null and void in the law, which this defendant is ready to verify. Wherefore this defendant prays judgment, &c.

And this defendant further says that, pursuant to the law of Congress entitled "An act to reduce internal taxation, and to amend an act entitled 'An act to provide internal revenue to support the Government, to pay

28 interest on the public debt, and for other purposes,' approved July 13th, 1866, and especially to section nine of said act, as laid down on page one hundred and ten of volume fourteen of the United States Statutes at Large, Little, Browne & Company's edition, the *the* said defendant Kingsbury did, on or about the 16th day of December, A. D. 1867, account to and with the proper accounting officers of the Treasury Department of the United States, in the manner and form prescribed in the said act of Congress, of and concerning the several and various accounts had by this defendant in respect of the said office of collector of internal revenue as alleged by said plaintiff to have been held by him, wherein and whereby this defendant, Kingsbury, was found not to be indebted to *to* the said plaintiffs in respect to said office of collector of internal revenue, and in evidence of such fact the Commissioner of Internal Revenue then and there certified to the First Comptroller of the Treasury that he, this defendant, Kingsbury, had used due dil*l*igence to entitle him

(Kingsbury) to the credits upon his accounts as collector of internal revenue, as provided in said section nine of the said act of Congress, which facts in pursuance thereof were proved to the satisfaction of the said Commissioner of Internal Revenue; and that, in consequence of said certificate of diligence on the part of this defendant (Kingsbury), as such collector of internal revenue as aforesaid, the proper officers of the said Treasury Department did then and there pay to this defendant all
29 of his salary, commissions, perquisites, and allowances that had accrued to him up to the date of such accounting, and which up to that time had been withheld of payment because and in consequence of this said defendant not having taken the said legal oath of office, and because also that he had not sooner settled and adjusted his accounts as such collector, and thus proving himself entitled thereto under the law, which forbids payment to any person having been previously an officer of the United States, and who shall be found to be in arrears to the Government of the same. All of which several matters and things herein alleged this defendant is ready to verify. Wherefore he prays judgment, to be herein dismissed with his costs.

And for further answer in this behalf, this defendant says and alleges that his term of office expired on the aforesaid date of twenty-eighth day of July, A. D. 1866.

And this defendant, saving to himself the benefit of each and all of his foregoing defences, says and alleges that he is not liable or responsible on any ar'ligation set forth in plaintiff's petition herein, if such there be, which is not admitted, for or on account of any of his acts in respect to the said alleged office or employment of collector of internal revenue, as set forth in plaintiff's petition herein: Wherefore this defendant prays the judgment of this hon. court to be herein dismissed, with his costs and for all general relief, to which in law and justice he
30 may be found entitled.

POWERS AND WELLS,
Atty's for Defendant Kingsbury.

(Endorsed:) No. 230. Law. The United States vs. Robert B. Kingsbury et als. First amended answer of defendant Robert B. Kingsbury. Filed May 13th, 1881. D. Beall, clerk. Filed this 31st day of July, A. D. 1885. Sam. Hopkins, clerk circuit court. Powers & Wells, defendant's att'ys.

31 No. 230.—Citation in circuit court.

UNITED STATES OF AMERICA,
Western District of Texas, Brownsville:

The President of the United States to the marshal of the eastern district of Texas, greeting:

You are hereby commanded to summon Simon Mussina, a resident citizen of the county of Galveston, in the eastern district of Texas, if to be found therein, to be and appear before the hon. circuit court of the United States at a court to be holden in and for the western district at Brownsville on the fourth Tuesday, being the 22 day of November, A.

D. 1881, to answer the petition and complaint of the United States, plaintiff, exhibited and filed in said court on the 28th day of February, A. D. 1881, against Robert Bates Kingsbury, William Joseph Phillips, Chas. Worthington, Richard W. Lane, Sam'l T. Barr, and Simon Mussina, defendants, of which petition you will serve the said Simon Mussina with the accompaning certified copy and also a true copy of this writ.

The nature of plaintiff's demand is as follows, to wit: Declaration on the official bond of Robert Bates Kingsbury, late collector of internal revenue for the second district of Texas; amount sued for, 14,170 $\frac{20}{100}$ dollars.

Herein fail not, but have you then and there before said court this writ with your action thereon showing how you have executed the same.

Witness the Hon. Morrison R. Waite, Chief-Justice of the Supreme Court of the United States, and the seal of said circuit court hereto affixed, at Brownsville, this 13 day of May, A. D. 1881, and the 105th year of our Independence.

Issued same day.

[SEAL.]

D. BEALL,
Clerk of said Court.

(Endorsed in the following words, to wit:) No. 230. U. S. circuit court, W. D. T., at San Antonio. The United States v. Robert Bates Kingsbury et al. Citation for Simon Mussina, Galveston County, issued 13 day of May, 1881. W. C. Robards, clerk. Marshal's return came to hand this 9th day of June, 1881, and executed on the 10th day of June, 1881, at Austin, by delivering to Simon Mussina in person a true copy of this writ and also a certified copy of this petition on this cause accompanying it. Wm. J. Phillips, U. S. marshal, by John H. Trawham, deputy. Mil'age of marshal, $30.00; mil'age of deputy, 2.00; service, $32.00. Filed Nov. 27, 1882. Duval Beal, clerk, by Chas. F. Tilghman. Filded this 31 day of July, A. D. 1885. Sam. Hopkins, clerk circuit court.

Suit pending in the circuit court of the United States, at Brownsville, 5th circuit, western district of Texas.

THE UNITED STATES
vs.
ROBERT B. KINGSBURY ET ALS. } No. 230. Law.

To CHARLES F. TILGHMAN,
Deputy Clerk of the Circuit Court
of the United States, at Brownsville, Texas:

D'R SIR: Please at once issue a subpœna duces tecum for William H. Sinclair, of the city and county of Galveston, Texas, to be and appear as a witness in behalf of the defendants in the above-styled and numbered cause, and to bring with him all the books, papers, receipts, vouchers, and accounts received by him during the summer of the year A. D. 1880, or any other time, from the said defendants Robert B. Kingsbury, touching the administration of the said Kingsbury as collector of internal rev-

enue for the 2nd district; said witness to appear at the next regular term of the said circuit court, to be begun and held at said city of Brownsville on the 23rd day of November, A. D. 1881.

POWERS & WELLS,
Att'ys for D'f'ts.

(Endorsed in the following words, to wit:) No. 230. Law. The United States vs. Robert B. Kingsbury et als. Precipe for subpœna duces tecum for Wm. H. Sinclair, a witness for defendants. Subpœna "duces
35 tecum" issued November 19th, A. D. 1881. Filed November 19th, A. D. 1881. Duval Beal, clerk, by Chas. F. Tilghman, deputy. Filed this 31 day of July, A. D. 1885. Sam. Hopkins, clerk circuit court.

Subpœna duces tecum for witness—Circuit court of the United States for the western district of Texas, at Brownsville, holding sessions.

The President of the United States, to the marshal of the eastern district of Texas, greeting:

You are hereby commanded to subpœna Wm. H. Sinclair, of Galveston, Texas, to be and appear before the circuit court of the United States for the western district of Texas, holding sessions at Brownsville, to be holden at the city of Brownsville, on the fourth Tuesday of November, A. D. 1881, then and there to testify in behalf of defendants in a certain cause therein, wherein the United States are plaintiff versus Robert Bates Kingsbury et als., who are defendants, and to bring with him all the books, papers, receipts, vouchers, and accounts received by him during the summer of the year A. D. 1880 or any other time, from the said defendant, Robert Kingsbury, touching the administration of the said Kingsbury as collector of internal revenue for the second district of Texas, and in this the witness is not to fail under the penalty of two hundred and fifty dollars.

Witness the Hon. Don. A. Pardee, judge of the 5th circuit of the
36 United States, and the seal of said circuit court at Brownsville, this 19th day of November, A. D. 1881.

DUVAL BEALL,
Clerk.
By CHAS. F. TILGHMAN,
Deputy.

(Endorsed in the following words, to wit:) No. 230. In the United States circuit court, western district of Texas, Brownsville sessions. The United States versus Robert B. Kingsbury et als. Subpœna to Wm. H. Sinclair. Issued 19th day of November, A. D. 1881. D. Beall, clerk, by Chas. F. Tilghman, deputy. Received this 30 day of November, A. D. 1881. Returned not executed for want of time. Wm. I. Phillips, U. S. M., eastern district of Texas. By H. H. Kirkpatrick, deputy. Filed Jan'y 6th, 1882. Duval Beall, clerk, by C. F. Tilghman, deputy. Filed this 31 day of July, A. D. 1885. Sam. Hopkins, clerk circuit court.

37, 38, 39, 40 In U. S. circuit court, 5th circuit, western district of Texas, at Brownsville.

THE U. STATES
vs.
ROBERT BATES KINGSBURY ET ALS. } No. 230. Law.

Now comes William Joseph Phillips, one of the def'ts hereto, & says that the plaintiff's petition herein is insufficient in the law for the plaintiffs hereto to have and maintain their action in this behalf against him.

Wherefore he prays the judgment of the court, to be herein dismissed with his costs.

POWERS & WELLS,
Att'y for Def't Phillips.

And now again comes the said def't, William Joseph Phillips, by his attorneys, Powers & Wells, in event that his preceding demurrer is overruled, & only in that event, & further say that the plaintiff's petition herein is insufficient in the law for the said pl'ffs to have their action in this behalf against him, & he assigns the following causes of special demurrer:

1. The said petition is vague & uncertain, & does not show with sufficient certainty when & how the def't, Kingsbury, became liable, as charged in said petition, nor upon which branch of the different accounts said Kingsbury was by law required to keep as collector of internal revenue, as charged.

2. The said petition sets forth no detailed statement of said Kingsbury's accounts, showing what funds or what class of funds, in virtue of
41 his said office of internal revenue collector the said Kingsbury has failed to pay over or account for, nor does said petition specify the dates when any such funds should have been received by the said Kingsbury in virtue of his said office as such collector, nor what portion of such delinquent amount alleged to rest with said Kingsbury is for uncollected taxes during his term of office, or left uncollected on his retiring from said office.

Wherefore this defendant prays judg't, to be herein dismissed with his costs.

POWERS & WELLS,
Atty's for Def't Phillips.

And now again comes the said def't, William Joseph Phillips, and without waiving his foregoing exceptions & demurrers, & only in the event that they shall be overruled, separately answering herein, says: That he denies all and singular the allegations and averments in the pl'ff's petition herein contained. Wherefore this def't prays judgment, to be dismissed with costs.

And for further answer this def't says that the principal def't herein, the said Kingsbury, was on the twenty-first day of June, A. D. 1865, commissioned as collector of internal revenue for the second district of Texas by the President of the United States, said commission to last or hold until the end of the then next session of the Senate of the United States, & no longer, and that the end of such session of the said
42 Senate took place on the twenty-eighth day of July, A. D. 1866. That the said Kingsbury at the date of his said commission as such

collector of internal revenue as aforesaid, was disqualified by law from holding & exercising said office, and did not nor could take the oath of office prescribed by the law of Congress in force at that time, entitled "An act to prescribe an oath of office, and for other purposes," approved July 2nd, 1862. And so this def't says, that the said Kingsbury never legally qualified in & for said office, & that if this def't ever signed any obligation in this behalf, as alleged in the said pl'ff's petition herein—which is not admitted—the same was nudum pactum, utterly without legal consideration, & so far as this def't is concerned, is & from the beginning was null & void in the law, which this def't is ready to verify. Wherefore this def't prays judgment, &c.

And this def't further says that, pursuant to the law of Congress entitled "An act to reduce internal taxation, and to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' approved June thirtieth, eighteen hundred and sixty-four, and acts amendatory thereof," approved July 13th, 1866, & especially to section nine of said act, as laid down on page one hundred & ten of volume fourteen of the United States Statutes at Large, Little, Brown & Company's edition, the said principal def't, Kingsbury, did, on or about the 16th day of
43 December, A. D. 1867, account to & with the proper accounting officers of the Treasury Department of the United States, in the manner and form prescribed in the said act of Congress, of & concerning the several & various accounts had by the said Kingsbury in respect of the said office of collector of internal revenue, as alleged by said pl'ff's to have been held by him, wherein & whereby the said def't, Kingsbury, was found not to be indebted to the said pl'ff's in respect to said office of collector of internal revenue; and, in evidence of such fact, the Commissioner of Internal Revenue then and there certified to the First Comptroller of the Treasury that the said def't, Kingsbury, had used due diligence to entitle him to the credits upon his accounts as collector of internal revenue, as provided in said section nine of the said act of Congress, which facts, in pursuance thereof, were proved to the satisfaction of said Commissioner of Internal Revenue; and that in consequence of said certificate of diligence on the part of said def't, Kingsbury, as such collector of internal revenue, as aforesaid, the proper officers of said Treasury Department did then & there pay to the said def't, Kingsbury, all his salary, commissions, perquisites, & allowances that had accrued to him up to the date of such accounting, and which up to that time had been withheld of payment, because & in consequence of the said def't, Kingsbury, not having taken the said legal oath of
44 office, & because, also, he had not sooner settled & adjusted his accounts as such collector, & thus proving himself entitled thereto under the law, which forbids payment to any person having been previously an officer of the United States, & who shall be found to be in arrears to the Government of the same. All of which several matters & things herein alleged this def't is ready to verify. Wherefore he prays judg't, to be dismissed with his costs.

And for further answer in this behalf this def't says & alleges that the term of office of said principal def't, Kingsbury, expired on the aforesaid date of twenty-eighth day of July, A. D. 1866, and this def't, saving to

himself the benefit of each & all of his foregoing defences, says & alleges that he is not liable or responsible on any obligation set forth in pl'ff's petition herein, if such there be, which is not admitted, for or on account of any act or omission of the said principal def't, Kingsbury, in respect of the said alleged office or employment of said Kingsbury as set forth in pl'ff's petition herein subsequent to the said date.

Wherefore this def't prays the judgment of this hon. court, to be herein dismissed with his costs, & for all general relief to which in law or justice he may be found entitled.

POWERS & WELLS,
Def't's Att'ys.

(Endorsed in the following words, to wit:) No. 230. Law. The
45 United States vs. R. B. Kingsbury et als. Original answer of William Joseph Phillips. Filed 26th day of April, A. D. 1882. Duval Beall, clerk, by Chas. F. Tilghman, deputy. Filed this 31 day of July, A. D. 1885. Sam Hopkins, clerk circuit court. Powers and Wills, def't's att'ys.

In U. S. circuit court, 5th circuit, western district of Texas, at Brownsville.

THE UNITED STATES
vs.
ROBERT BATES KINGSBURY ET ALS. } No. 230. Law.

Now comes Simon Mussina, one of the def'ts hereto, & says that the plaintiffs' petition herein is insufficient in the law for the plaintiffs hereto to have and maintain their action in this behalf against him. Wherefore he prays the judgment of the court, to be herein dismissed with his costs.

POWERS & WELLS,
Att'ys for Def't Mussina.

And now again comes the said def't, Simon Mussina, by his att'ys, Powers & Wells, in the event that his preceding demurrer is overruled, & only in that event, & further says that the plaintiffs' petition herein is insufficient in the law for the said plaintiffs to have their action in this behalf against him, & he assigns the following causes of special demurrer:

46 1. The said petition is vague and uncertain and does not show with sufficient certainty when and how the defendant Kingsbury became liable as charged in said petition, nor upon which branch of the different accounts said Kingsbury was by law required to keep as collector of internal revenue as charged.

2. The said petition sets forth no detailed statement of said Kingsbury's accounts, showing what funds or what class of funds, in virtue of his said office of internal-revenue collector, the said Kingsbury has failed to pay over or account for. Nor does said petition specify the dates when any of such funds should have been received by the said Kingsbury in virtue of his said office as such collector, nor what portion of such delinquent amount alleged to rest with said Kingsbury is for uncollected taxes

during his term of office, or left uncollected on his retiring from said office.

Wherefore this def't prays judg't, to be herein dismissed with his costs.

POWERS & WELLS,
Att'ys for Deft. Mussina.

And now again comes the said deft., Simon Mussina, & without waiving his foregoing exceptions & demurrers, & only in the event that they shall be overruled, separately answering herein, says: That he denies all and singular the allegations and averments in the pl'ffs' petition herein contained. Wherefore this defendant prays judgment, & to be
47 herein dismissed with his costs.

And, for further answer, this defendant says that the principal defendant herein, the said Kingsbury, was, on the twenty-first day of June, A. D. 1865, commissioned as collector of internal revenue for the second district of Texas, by the President of the United States, said commission to last & hold until the end of the then next session of the Senate of the United States, & no longer. And that the end of such session of the said Senate of the United States took place on the twenty-eighth day of July, A. D. 1866.

That said Kingsbury, at the date of his said commission as said collector of internal revenue as aforesaid, was disqualified by law from holding or exercising said office, and did nor could take the oath of office prescribed by the law of Congress, in force at that time, entitled "An act to prescribe 'an oath of office, and for other purposes,'" approved July 2nd, 1862. And, so this defendant says that the said Kingsbury never legally qualified in & for said office, & that if this defendant ever signed any obligation in this behalf as alleged in the said pl'ffs' petition herein—"which is not admitted"—the same was nudum pactum, utterly without legal consideration, & so far as this defendant is concerned, is, & from the beginning was, null and void in the law, which this defendant is ready to verify.

Wherefore this defendant prays judgement, &c.

And this deft. further says that, pursuant to the law of Congress
48 entitled "An act to reduce internal taxation and to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June thirtieth, eighteen hundred and sixty-four, and acts amendatory thereof," approved July 13, 1886, & especially to section nine of said act as laid down on page one hundred & ten of volume fourteen of the United States Statutes at Large—Little, Brown & Company's edition—the said principal def't, Kingsbury, did on or about the 16th day of December, A. D. 1867, account to & with the proper accounting officer of the Treasury Department of the United States in the manner and form prescribed in the said act of Congress, of & concerning the several & various accounts had by the said Kingsbury in respect of the said office of collector of internal revenue as alleged by said pl'ffs to have been held by him, wherein & whereby the said def't, Kingsbury, was found not to be indebted to the said pl'ffs in respect to the said office of collector of internal revenue, and in evidence of such fact the Commissioner of Internal Revenue then and there certified to the First Comptroller of the Treasury that the said def't, Kingsbury, had used due diligence to entitle him to the credits upon his

accounts as collector of internal revenue, as provided in said section nine of the said act of Congress, which facts in pursuance thereof were proved to the satisfaction of the said Commissioner of Internal Revenue;
49 and that in consequence of said certificate of diligence on the part of said def't, Kingsbury, as such collector of internal revenue, as aforesaid, the proper officers of the said Treasury Department did then and there pay to the said def't, Kingsbury, all of his salary, commissions, perquisites, & allowances that had accrued to him up to the date of such accounting, and which up to that time had been withheld of payment, because of and in consequence of the said def't, Kingsbury, not having taken the said legal oath of office, & because also that he had not sooner settled and adjusted his accounts, as such collector, & thus proving himself entitled thereto under the law, which forbids payment to any person having been previously an officer of the United States, & who shall be found to be in arrears to the Government of the same, all of which several matters and things herein alleged this def't is ready to verify.

Wherefore, he prays judgment to be herein dismissed with his costs.

And for further answer in this behalf this def't says & alleges that the term of office of said def't, Kingsbury, expired on the aforesaid date of twenty-eighth day of July, A. D. 1866, and this def't saving to himself the benefit of each and all of his foregoing defences, says and alleges that he is not liable or responsible on any obligation set forth in pl'ffs' petition herein, is such there be, which is not admitted, for or on account of any act or omission of the said principal def't, Kingsbury, in respect
50 to the alleged office or employment of said Kingsbury as set forth in pl'ffs' petition herein subsequent to the said date.

Wherefore this defendant prays the judgment of this hon. court to be herein dismissed with his costs, & for all general relief to which in law & justice he may be found entitled.

POWERS & WELLS,
Def'ts' Att'ys.

(Endorsed in the following words, to wit:) No. 230, law. The United States vs. R. B. Kingsbury & others. Original answer of Simon Mussina. Filed 26th day of April, A. D. 1882. Duval Beall, clerk, by Chas. F. Tilghman, deputy. Filed this 31 day of July, A. D. 1885. Sam Hopkins, clerk circuit court. Powers and Wells, defen'ts' attorneys.

51 In the honorable United States circuit court for the 5th circuit and western district of Texas, holding sessions in said district.

Now comes the United States by her attorney and, with leave of the court being first had, files this her amendment to her original petition filed in this cause on Feb. 28th, 1881, and so amending says that she complains before the honorable judges of the said court of one William Joseph Phillips, who is a resident citizen of the county of Wharton and eastern district and State of Texas; and one Charles Worthington, who is a resident citizen of the county of Nuesces and the State of Texas, and the western district of Texas; and one Richard N. Lane, who is a resident citizen of the State of Texas, and the western district of Texas;

and one Samuel J. Barr, who is a non-resident of Texas; and one Simon Mussina, who is a resident citizen of Galveston County and the eastern district, and in the State of Texas; and one Robert Bates Kingsbury, who is a resident citizen of Cameron County and the State of Texas, and the western district of Texas, and so complaining would most respectfully represent: That on the 8th day of July, A. D. 1865, the said Robert Bates Kingsbury was collector of internal revenue for the 2nd collection district of Texas, and on that day he, the said Robert Bates Kingsbury, as a principal, and the said Phillips, Worthington, Lane, Barr, and Mussina as sureties, did make, execute, and deliver to the plaintiff
52 their joint and several bond in the sum of fifty thousand dollars, conditioned, among other things, as follows: "Whereas the President of the United States hath, pursuant to law, appointed the said Robert Kingsbury collector of taxes, under an act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes: Now, therefore, if the said Robert Bates Kingsbury shall truly and faithfully execute and discharge all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and if each and every dep't collector appointed by said collector shall truly and faithfully execute and discharge all the duties of such deputy collector according to law, then the above obligation to be void and of no effect; otherwise shall abide and remain in full force and virtue."

Which said aforesaid bond and obligation is on file in the proper office at Washington City and can not be produced here, but a certified copy thereof is herewith filed and made a part hereof, marked Exhibit A, first as pleadings and second as evidence.

And plaintiff now comes and says that the said Robert Bates Kingsbury has been guilty of a breach of the said aforesaid bond and obliga-
53 tion, and she assigns her breach of said bond and brings her action of debt, as follows, to wit:

That from and after the said 8th day of July, 1865, and during his continuance in his said office of collector of internal for the 2nd district of Texas, there came into the hands of the said Kingsbury, by virtue of his office aforesaid, a large sum of public money, viz, the sum of $14,170.20, the property of the United States of America, of great value, arising from taxes collected and stamps sold by him, and from other sources, over and above all sums he accounted for to the United States, and which sum of money, to wit, the sum of $14,170.20, he, the said Kingsbury, and his sureties, were bound to account for and pay over to this plaintiff, by virtue of the conditions of their said bond aforesaid and according to law, but to pay the same or any part thereof he, the said Kingsbury, and he, the said R. N. Lane, and he, the said Wm. Joseph Phillips, and he, the said Charles Worthington, and the said Sam'l F. Barr, and he, the said Simon Mussina, have hitherto failed, neglected, and refused, though often demanded of them jointly and separately; to her damages the sum of $30,000 damages, &c.

Plaintiff more specifically avers that among the moneys as above, as being collected and coming into the hands of the said

Kingsbury, by virtue of his office aforesaid, is and was the said sum of $14,170.20, arising from taxes collected by him, and stamps
54 sold, and other sources.

And plaintiff avers that upon a full and fair and complete adjustment of the accounts of the said Robert Bates Kingsbury, as collector of internal revenue for the second district of Texas, with the United States of America, under his said aforesaid bond of July 8th, 1865, there is and was found a Treasury balance in favor of the United States, and against him, the said Kingsbury, amounting to the said sum of $14,170.20, as will more fully appear from "a certain transcript from the books and papers from the Treasury Department of the United States relating to the acc'ts of the said Kingsbury aforesaid, which is filed herewith, and made a part hereof, marked Exhibit B.

Premises fully considered, plaintiffs prays for citation for defendants, and for judgment final against said defendants for said sum of $14,170.20, principal sum, and interest thereon at the rate of six per cent. per annum from the date the same should have been paid to U. S., and for all costs of suit, and for general and equitable relief, &c., &c.

A. J. EVANS,
U. S. Att'y, West Dist. Texas.

(Endorsed in the following words, to wit:) No. 230. U. S. vs. Robert Bates Kingsbury et al. Plaintiffs' 1st amended petition. Filed April 28, 1882. W. C. Robards, clerk. Filed this 31 day of July, A. D. 1885. Sam. Hopkins, clerk circuit court.

55 [Office of the Register of the Treasury.—Form 1.]

Transcript certificate.

TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., December 16th, 1880.

Pursuant to section 886 of the Revised Statutes of the United States, I, G. W. Scofield, Register of the Treasury Department, do hereby certify that the annexed copies of the reports of the Fifth Auditor of the Treasury, numbered 1420, 1470, 6771, 10253, and 13650, as admitted and certified by the First Comptroller, upon the accounts of Robert B. Kingsbury, late collector of internal revenue for the second district of Texas, and of the statements of differences thereon, also itemized summary statement of his account are a transcript from the books and proceedings of the Treasury, and that the copies of the collector's quarterly accounts hereto attached are true copies of the originals on file in this Department.

G. W. SCOFIELD,
Register.

[S. A. J.]

Be it remembered that G. W. Scofield, esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, H. F. French, Acting Secretary of the Treas-

ury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department, at the city of Washington, this sixteenth day of December, in the year of our Lord 1880.

H. F. FRENCH,
Acting Secretary of the Treasury.

[M.]

56 No. 1420.]

TREASURY DEPARTMENT, FIFTH AUDITOR'S OFFICE,
June 6, 1867.

I hereby certify that I have examined and adjusted an account between the United States and Robert B. Kingsbury, collector for the 2nd district of Texas, from Jan. 1, 1866, to June, 1866, and find him chargeable as follows:

2.	To amount of assessor's lists receipted for, as per certificate of Commissioner and receipts in Comptroller's office	$160,476.36	160,476.36

I also find him entitled to credit as follows:

13.	By amount of cash deposited as per 15 certificates herewith		$64,550.63
	No. 163. 1st quarter, 1866	$25,000.00	
	" 224. 2nd " "	12,490.25	
	" 749. " " "	17,060.00	
	" 204. 3rd " "	10,000.38	
	Amt. allowed herein	$64,550.63	
25.	By balance due the United States		95,925.73
			$160,476.36

57 [Endorsement.]

As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

C. M. WALKER,
Auditor.

To the FIRST COMPTROLLER OF THE TREASURY.

$95,925$\frac{73}{100}$.

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
June 7th, 1867.

I admit and certify that a balance of ninety-five thousand nine hundred twenty-five and $\frac{73}{100}$ dollars is due the United States as stated in the above report.

R. W. TAYLOR,
Comptroller.

To the REGISTER OF THE TREASURY.

58 *Statement of differences.*

Balance per account due to U. S.....	$92,499.41
" found per adjustment due to U. S.....	95,925.73
Differences to collector's debit.....	$3,426.32

Explained thus:

Taxes claimed as receipted for by collec':	
1st Texas—Suspended; no receipt	3,426.32

Lists charged (*Form* 23½).

January, 1866	$77,732.11
February, "	28,968.98
March, "	31,975.13
April, "	21,800.14
Total	160,476.36

FIFTH AUDITOR'S OFFICE,
June 6th, 1867.

Examined and stated by Augustus Ward.

FIRST COMPTROLLER'S OFFICE,
June 7th, 1867.

Examined and reported by S. C. Clarke.

59 No. 1470.]

TREASURY DEPARTMENT, FIFTH AUDITOR'S OFFICE,
June 21st, 1867.

I hereby admit and certify that I have examined and adjusted an account between the United States and Robert B. Kingsbury, collector for the 2nd district of Texas, from July 1st, 1866, to Dec. 31st, 1866, and find him chargeable as follows:

1.	To balance from last adjustment, report No.	$95,925.73
8.	" amount of beer stamps sold, per comm'rs certificate....	255.25
	" amount of unassessed penalties, duties on distilled spirits, liquors, &c., reported by collector on form 59	2.48
	" balance of duties on goods bonded for exportation but not exported..	494.40
		437,451.96

I also find him entitled to credit as follows:

13.	By amount of cash deposited as per 35 certificates herewith		$184,021.86
22.	" amount collected by Milton Stapp, 1st dist. Texas, on lists receipted for by collector		3,426.32
24.	" amount of comm's		8,554.26
	No. 203, 3rd quarter, 1866	13,700.75	
	" 517, " " "	11,582.80	
	" 747, " " "	4,750.00	
	" 460, 4th " "	35,406.00	
	" 905, " " "	11,441.00	
	" 245, 1st " 1867	1,573.20	
	" 568, " " "	2,154.80	
	" 890, " " "	79,100.37	
	" 287, 2nd " "	5,388.00	
	" 312, " " "	21,079.74	
		186,176.66	
60	Bro't forward	186,176.36	
	Less stamps	2,154.80	
	Allowed herein	$184,021.86	
25.	By balance due the United States		241,449.52
			$437,451.96

[Endorsement.]

As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

C. M. WALKER,
Auditor.

To the FIRST COMPTROLLER OF THE TREASURY:

$241,449$\frac{52}{100}$.

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE,
June 22d, 1867.

I admit and certify that a balance of two hundred and forty-one thousand, four hundred and forty-nine $\frac{52}{100}$ dollars is due to the United States, as stated in the above report.

R. W. TAYLOR,
Comptroller.

To the REGISTER OF THE TREASURY.

61 *Statement of differences.*

Balance per account due to United States	207,765.60
" found per adjustment, due to United States	241,449.52
Differences to collector's	33,683.92

Explained thus:		
1. Lists ch'g'd, form 23½ & 59, in excess of amt. credited in %	44,270.66	
2. Abatements claimed, disallowed	330.24	
3. Taxes transferred to successor, claimed in account, not allowed until collected	18,225.13	
4. "Amt. of bonded goods removed from the district & duties paid elsewhere which have been included on assessment-rolls receipted for," claimed in %, suspended—no vouchers	236.64	
5. Beer stamps charged as per com'r's statement not credited in %	255.25	
6. Outstanding difference to collector's debit.	3,426.32	
		66,744.24
Per contra:		
1. Am't of C. D., No. 470, not claimed in %, allowed herein	21,079.74	
2. Amount collected and passed to the credit of successor, not claimed	8,554.26	
3. Am't collected by Milton Stapp, 1st Texas, on lists receipted for by coll'r (outstanding difference)	3,426.32	
		33,060.32
Difference as above stated		33,683.92

Lists charged, 23½.

Bonded goods	$494.40
Form 59	2.48
Beer stamps	255.25
	$752.13
(23½)	340,774.10
Aggregate	341,526.23
June, 1866	3,890.97
May, "	47,451.56
April, "	83,591.31
July, "	1,145.13
Aug. "	3,506.96
Sept. "	5,469.11
Oct., 1886	43,253.54
62 Nov. "	31,383.24
Dec.	928.47
No list	119,736.03
May, June, July, & Aug	417.78
Total	$340,774.10

FIFTH AUDITOR'S OFFICE,
June 21, 1867.

Examined and stated by Augustus Ward.

FIRST COMPTROLLER'S OFFICE,
June 22, 1867.

Examined and reported by Alb't B. White.

63 *Supplemental.*

No. 6771.] TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE,
March 7th, 1872.

I hereby certify that I have examined and adjusted an account between the United States and Robert B. Kingsbury, late collector for the second district of Texas, from , to October 23d, 1866, and find him chargeable as follows (under bond dated July 8th, 1865):

1. To balance from last adjustment, report No. 1470.....	241, 449. 52
" am't of tax on 5,500 gallons coal oil not heretofore charged.....	1, 100. 00
" am't of error per rep't ≠ 1470 in charging am't annual list 1866	1. 00
To balance due the collector	242, 550. 52

I also find him entitled to credit as follows:

14. To amount of taxes abated by commissioner's orders, Nos. 4454, 5388, 8142, *6116.....	26, 833. 49
21. " amount collected by successor on lists transferred to him, R. H. Dane.....	25, 213. 66
" am't of counter-warrant No. 384, 2d q'r 1867 (see Comp. Rep't, ≠ 629.....	923. 27
25. By balance due the United States	189, 580. 10
	242, 550. 52

64, 65, & 66 [Endorsement.]

As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

J. B. MANN,
Acting Fifth Auditor.

To the FIRST COMPTROLLER OF THE TREASURY.

$189,580\frac{10}{100}$.] TREASURY DEPARTMENT,
FIRST COMPTROLLER'S OFFICE,
March 12th, 1872.

I admit and certify that a balance of one hundred eighty-nine thousand five hundred eighty & $\frac{10}{100}$ dollars is due to the United States as stated in the above report.

WM. HEMPHILL JONES,
Acting Comptroller.

To the REGISTER OF THE TREASURY.

* NOTE.—This order (✕6116) was drawn in favor of successor R. H. Lane and credited to him, but the same was charged back to him per rep't ✕ 4565.

67 *Statement of differences.*

FIFTH AUDITOR'S OFFICE,
March 7th, 1872.

Examined and stated by R. B. Detrick.

FIRST COMPTROLLER'S OFFICE,
March 12th, 1872.

Examined and reported by Geo. S. Fife.

68 *Supplemental.*

No. 10253.] TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE,
July 14th, 1875.

I hereby certify that I have examined and adjusted an account between the United States and Robert B. Kingsbury, late collector for the 2nd district of Texas from , 188 , to October 23rd, 1866, and find him chargeable as follows under bond of July 8th, 1865):

1.	To balance from last adjustment, report No. 6771.....	189,580.10
3.	" amount collected on lists receipted for by successor in office, R. H. Lane.....	145,203.72
	" amount of taxes collected not receipted for on any list.....	18,357.30
11.	To balance due the collector.....	353,141.12

I also find him entitled to credit as follows:

14.	By amount of taxes abated by commissioner's orders, Nos. 5958, 5959, 5960, 5961, 5962, 5963, 7557, 7785, 7798, 8307	127,626.88
21.	" amount collected by successor on lists transferred to them, viz: L. G. Brown, $82.25; W. A. Sayler, 3.00.....	85.25
	" amount of error per rept. ≠ 1370, in charging "assessor's lists receipted for;" the same should have been charged and now is charged as collections on lists of successors, R. H. Lane, $145,203.72, and as taxes collected, not receipted for, 18,357.30.....	209,731.23
25.	" am't charged per r'p't ≠ 6771, tax on coal oil, since accounted for	1,100.00
	By balance due the United States.....	14,597.76
		353,141.12

69 [Endorsement.]

As appears from accounts and vouchers transmitted for the decision of the Comptroller thereon.

J. H. ELA,
Auditor.

To the FIRST COMPTROLLER OF THE TREASURY.

$14,597.\frac{76}{100}$.] TREASURY DEPARTMENT,
FIRST COMPTROLLER'S OFFICE,
July 17, 1875.

I admit and certify that a balance of fourteen thousand five hundred ninety-seven and $\frac{76}{100}$ dollars is due to the United States as stated in the above report.

R. W. TAYLER,
Comptroller.

To the REGISTER OF THE TREASURY.

Supplemental for suit.

70 No. 13650.]

TREASURY DEPARTMENT, FIFTH AUDITOR'S OFFICE,
August 20th, 1880.

I hereby certify that I have examined and adjusted an account between the United States and Robert B. Kingsbury, late collector for the 2d district of Texas, from ——— 188– to October 23d, 1866, and find him chargeable as follows: (Under bond dated July 8th, 1865.)

1.	To balance from last adjustment report No. 10,253.....	$14,597.76
3.	" amount collected on lists receipted for by successor in office, R. H. Lane	28.50
	To balance due the collector	14,626.26

I also find him entitled to credit as follows:

14.	By amount of taxes abated by Commissioner's orders Nos. 10,100, 10,206, 10,856		86.66
21.	" amount collected by successors on lists transferred to them:		
	W. H. Sinclair	$191.39	
	L. G. Brown.....	1.00	
	R. H. Lane.....	177.01	
			369.40
25.	" balance due the United States.....		14,170.20
			14,626.26

71 [Endorsement.]

As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

J. H. ELA,
Fifth Auditor.

To the FIRST COMPTROLLER OF THE TREASURY.

$14,170.\frac{20}{100}$.

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
September 30th, 1880.

I admit and certify that a balance of fourteen thousand one hundred and seventy and $\frac{20}{100}$ dollars is due to the United States, as stated in the above report.

J. TARBELL,
Acting First Comptroller.

To the REGISTER OF THE TREASURY.

72 *Statement of differences.*

Balance per account due to the United States.....		$207,765.60
" found per adjustment due to the United States.....		14,170.20
Differences to collector's credit		193,595.40

Explained thus :

	Cr.		
1. Amount credited for adjustment as cash deposited..	$249,495.76		
Amount claimed per collector's account as cash deposited	227,492.75		
		22,003.01	
Caused thus :			
Amount of C. D. #470, N. B. Galveston, dated May 13, 1867, not claimed per coll'rs acct...	21,079.74		
Amount of int. rev. warrant No. 384, 2d qr., 1867, being part of balance per Comp. Rept. #629.....	923.27		
	22,003.01		
2. Amt. credited per adjustment as cash deposited to the credit of successor, R. H Lane....		8,554.26	
abated...	$154,547.03		
3. Amt. credited herein as taxes taxes abated	330.24		
" claimed per coll'rs acct.		154,216.79	
4. Credited per adjustment, as collections made on lists receipted by Coll'r Kingsbury, viz :			
By R. H. Lane, successor	25,390.67		
" L. G. Brown "	83.25		
" W. A. Saylor "	3.00		
" W. H. Sinclair, coll'r 1st dist. Texas	191.39		
		25,668.31	
5. Amt. credited per coll'rs acct., as collections of taxes not receipted for on lists.....	165,462.05		
Amount charged per adjustments	#163,589.52		
		1,872.53	
			212,314.90

73 Deduct.

DR.

a.	Amt. claimed per coll'rs acct. as taxes transferred to successor not credited per adjustment	18,225.13	
	NOTE.—In lieu of credit for taxes transferred the collector has been credited with collections made by successors on those taxes.		
b.	Amt. charged per adjustment as collected on beer stamps	255.25	
c.	" charged per adjustment as collected on form 59	2.48	
d.	" claimed per coll'rs acct. as taxes on bonded goods which have been receipted for on lists	236.64	
			18,719.50
	Difference as above		193,595.40

※ Of this amount $145,232.22 was subsequently receipted for by successor R. H. Lane.

FIFTH AUDITOR'S OFFICE,
August 20th, 1880.

Examined and stated by R. B. Detrick.

FIRST COMPTROLLER'S OFFICE,
September 30th, 1880.

Examined and reported by S. C. Clarke.

74 TREASURY DEPARTMENT, FIFTH AUDITOR'S OFFICE,
August 23, 1880.

I hereby certify that the within is a true statement of the charges and credits of the revenue account of Robert B. Kingsbury, late collector of internal revenue for the 2d district of Texas, for the period from July 17, 1865, to October 23d, 1866, as appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

J. B. MANN,
Acting Auditor.

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE,
Nov. 27th, 1880.

I admit and certify that the within is a correct statement of the items of debit and credit in the revenue account of the late internal-revenue collector, Robert B. Kingsbury, of the second collection district of Texas, continuously stated for the period above named, under his official bond of July 8th, 1865, showing a balance due to the United States of fourteen thousand one hundred and seventy & $\frac{20}{100}$ dollars (14,170.$\frac{20}{100}$), as heretofore reported.

WM. LAWRENCE,
First Comptroller.

75 *Summary statement of the revenue account of Robert B. Kingsbury, late collector of internal revenue for the second district of Texas, for the period from July 17, 1865, to October 23, 1866, under his official bond dated July 8th, 1865.*

DR.

1. To amount of taxes receipted for per form 23½, viz:		
To amount of the January list, 1866	$77,732.11	
" " " " February " "	28,968.98	
" " " " March " "	31,975.13	
" " " " April " "	21,800.14	
" " " " May " "	47,451.56	
Annual list, 1866	83,592.31	
Total lists receipted for		291,520.23
2. To amount of beer stamps furnished the collector, per form 103, for October, 1866		500.00
3. To am't of advance collections on lists of successor R. H. Lane		145,232.22
4. To am't of taxes collected not receipted for on any list		18,357.30
5. To amount of taxes on bonded goods collected		494.40
6. " " " " " form 59 "		2.48
7. " " " " excess in accounting for beer stamps		3.19
		456,109.82

76 CR.

1. By am't of cash deposited as per covering warrants as follows, viz:		
By warrant No. 163, 1st qr., 1866	$25,000,00	
" 224, 2d " "	12,490.25	
" 749, " " "	17,060.00	
" 204, 3d " "	10,000.38	
" 203, " " "	13,700.75	
" 517, " " "	11,582.80	
" 747, " " "	4,750.00	
" 460, 4th " "	35,406.00	
" 905, " " "	11,441.00	
" 245, 1st " 1867	1,573.20	
" 890, " " "	79,100.37	
" 287, 2d " "	5,388.00	
" 312, " " "	21,079.74	
" 384, " " "	923.27	
		249,495.76
2. By am't of cash deposited to credit of successor		8,554.26
3. By am't of taxes abated by the Commissioner of Internal Revenue		154,547.03

Summary statement of the revenue account, etc.—Continued.

CR.

4.	By am't collected by successors on lists receipted for by Collector Kingsbury, viz:		
	R. H. Lane	25,390.67	
	L. G. Brown	83.25	
	W. A. Saylor	3.00	
			25,476.92
	Milton Stapp, 1st dist. Texas	3,426.32	
	W. H. Sinclair, " " "	191.39	
			3,617.71
5.	By am't of beer stamps returned		66.00
6.	" " " " " transferred to M. Stapp		157.50
7.	" " " " " " " R. H. Lane		10.00
8.	" " " discount on sales of beer stamps		20.44
	Balance due the United States		14,170.20
			$456,109.82

77 *Statement of differences.*

Balance per collect's acc't due the United States		207,765.60
" " foregoing statements " " " "		14,170.20
Difference to coll'r's credit		193,595.40

Explained thus:

CR.

1.	Am't credited herein as cash deposited	$294,495.76	
	Less am't claimed per coll'r's ac	227,492.75	
			22,003.01
	Caused thus: The amount of the following covering warrants are not claimed per coll'r's ac., viz:		
	Wt. = 312, 2 qu., 1867	$21,079.74	
	" = 384, " " "	923.27	
		$22,003.01	
2.	Am't credited herein as cash deposited to the credit of successor A. H. Lane, not claimed per ac		8,554.26
3.	Am't credited herein as taxes abated	$154,547.03	
	Less am't claimed per coll'r's ac	330.24	
			154,216.79

CR.

4. Am't credited herein as collections made on lists receipted by Collector Kingsbury not claimed in his account rendered, viz:			
R. H. Lane, successor....	$25,390.67		
L. G. Brown "	83.25		
W. A. Taylor "	3.00		
W. H. Sinclair, coll'r 1st dist. Tex.....	191.39		
		25,668.31	
5. Am't credited per coll'rs ac. as collections of taxes not receipted for on lists	$165,462.05		
Less am't charged herein as collections on lists of successor $145,232.22			
Collections not receipted for... 18,357.30			
	163,589.52		
		1,872.53	
			212,314.90

Deduct:

DR.

a. Am't claimed per coll'rs ac. as taxes transferred to successor not credited herein..... See items marked 3 & 4 above.		18,225.13	
b. Beer stamps, am't ch'g'd herein as furnished	$500		
Am't ch'g'd herein as excess.....	3.19		
	503.19		
Less am't credited herein as transferred	$167.50		
Am't credited herein as returned	60.00		
Am't credited herein as discount	20.44		
	247.94		
		255.25	
c. Am't charged herein as collections per Form 59, penalties.....		2.48	
d. Am't claimed per coll'r ac. as taxes on bonded goods receipted for on lists.....		236.64	
			18,719.50
Difference as above			193,595.40

78 (Form 79.)

No. 1.—Collector's Quarterly Account.—Quarter Ending March 31st, 1866.

The United States (Office Internal Revenue) in account with Robt. B. Kingsbury, collector, 2nd district of Texas.

Dr.

1.	To amount credited in last account as "Taxes collected in advance of receipt of list".....		
2.	To amount credited in last account as "Cash deposited in excess".....		
3.	" amount of errors in former accounts, viz:		
4.	" amount of cash deposited.....	30,000.00	
			30,000.00
5.	" amount of taxes abated by Commissioner, as per orders of abatement, viz: No. , $; No. , $ ..... $ No. , $; No. , $ ..... $		
6.	" amount of claims for credit allowed under Fifth Auditor's circular, No. 15, as per revenue report No.		
7.	" amount of taxes transferred to		
8.	" amount of taxes collected by predecessor on lists receipted for by me.....		
9.	" amount of 7½ per cent. discount on face value of beer stamps sold		
10.	" amount of special-tax stamps and coupons returned..		
11.	" " " tobacco, cigar, and cigarette stamps and coupons returned		
12.	" amount of spirit stamps and coupons returned		
13.	" " " beer stamps returned		
14.	" amount of stamps issued specially by order of Commissioner Int. Rev., viz: Special tax, $; tobacco, &c., $; spirit, $; beer, $		
15.	" amount of stamps transferred to successor, viz:: Special tax, $; tobacco, &c., $; spirit, $; beer, $		
16.	" balance due United States, viz:		
	Cash on hand .....$	8,576.94	
	Special-tax stamps on hand.....$		
	Tobacco, cigar, and cigarette stamps on hand....$		
	Spirit stamps on hand.....$		
	Beer stamps on hand .....$		
	Uncollected taxes on hand.....$	73,177.22	
			81,754.16
			$111,754.16

Cr.

17.	By balance due U. S. as per last account rendered.....		
18.	" amount of errors in former accounts, viz:		
19.	" amount collected on lists receipted for by successor..		
20.	" amount of taxes received from		
21.	" amount of taxes receipted for on Form 23½, viz:		
	List for month of November, 1865.....$	2,922.67	
	List for month of December, " .....$	15,985.73	
	List for month of January, 1866 .....$	58,823.71	
	List for month of , 188 .....$		
			77,732.11

22. " amount of stamps received, viz:

Month.	Special tax.	Tobacco, &c.	Spirit.	Beer.
, 188	$	$	$	$
, 188	$	$	$	$
, 188	$	$	$	$
From predecessor..	$	$	$	$

RECAPITULATION.

	From Commissioner.	From predecessor.	
Special tax	$	$	
Tobacco, &c	$	$	
Spirit	$	$	
Beer	$	$	
23. By amount excess abated or collected on lists			
24. " amount excess in accounting for stamps, as per following forms, viz: Form 68, $; Form 76, $; Form 90, $; Form 103, $			
25. " amount of taxes collected in advance of receipt of list			
From other sources, viz: Taxes collected before the rolls were made, and which have not been included on any list receipted for by the collector		34,022.05	
26. " amount deposited in excess			34,022.05
			$111,754.16

ROBT. B. KINGSBURY,
Collector Second District of Texas.

Dated at Brownsville, Texas, this 14th day of April, A. D. 1866.

(Indorsed:) Division of accounts. (Form 79.) Quarterly account, No. . , collector, district, . quarter ending , 188 . Office of Internal Revenue, , 188 . Respectfully referred to the Fifth Auditor. Deputy Commissioner.

79 (Form 79.)

NO. 2—COLLECTOR'S QUARTERLY ACCOUNT, QUARTER ENDING JUNE 30, 1866.

The United States (Office Internal Revenue) in account with Robt. E. Kingsbury, collector, 2nd district of Texas.

DR.

1. To amount credited in last account as "Taxes collected in advance of receipt of list"		
2. " amount credited in last account as "Cash deposited in excess"		
3. " amount of errors in former accounts, viz:		
4. " amount of cash deposited		
" am't of taxes receipted for by coll'r 1st dist. Texas ..	3,426.32	3,426.32
5. " amount of taxes abated by Commissioner, as per orders of abatement, viz:		
No. , $; No. , $ .....$		
No. , $; No. , $ .....$		
" amount reported on last quarterly acc't "as collected without rolls, since included in lists receipted for to the assessor	34,022.05	34,022.05
6. " amount of claims for credit allowed under Fifth Auditor's circular, No. 15, as per Revenue Report No.		
7. " amount of taxes transferred to		
8. " amount of taxes collected by predecessor on lists receipted for by me		
9. " amount of 7½ per cent. discount on face value of beer stamps sold		
10. " amount of special tax stamps and coupons returned.		
11. " " " tobacco, cigar, and cigarette stamps and coupons returned		
12. " amount of spirit stamps and coupons returned		

(Form 79.)—No. 2.—COLLECTOR'S QUARTERLY ACCOUNT, ETC.—Continued.

DR.

13. To amount of beer stamps returned.....			
14. " amount of stamps issued specially by order of Commissioner Int. Rev., viz: Special tax, $; tobacco, &c., $; spirit, $; beer, $ ...			
15. " amount of stamps transferred to successor, viz: Special tax, $; tobacco, &c., $; spirit, $; beer, $			
16. " balance due United States, viz:			
Cash on hand.....		$13,678.78	
Special-tax stamps on hand.....		$	
Tobacco, cigar, and cigarette stamps on hand.....		$	
Spirit stamps on hand.....		$	
Beer stamps on hand.....		$	
Uncollected taxes on hand.....		$78,820.63	
			92,499.41
			$164,498.41

CR.

17. By balance, as per last account rendered, No. 1.....		81,754.16	
			81,754.16
18. " amount of errors in former accounts, viz:			
19. " amount collected on lists receipted for by successor.			
20. " amount of taxes received from			
21. " amount of taxes receipted for on Form 23½, viz:			
List for month of February, 1866		$28,968.98	
List for month of March, 1866		$31,975.13	
List for month of April, 1866		$21,800.14	
List for month of , 188		$	
			82,744.25

22. " amount of stamps received, viz:

Month.	Special tax.	Tobacco, &c.	Spirit.	Beer.
, 188 ,	$	$	$	$
, 188 ,	$	$	$	$
, 188 ,	$	$	$	$
From predecessor,	$	$	$	$

RECAPITULATION.

	From Commissioner.	From Predecessor.
Special tax.....$		$
Tobacco, &c.....$		$
Spirit .....$		$
Beer .....$		$

23. By amount excess abated or collected on lists.....
24. " amount excess in accounting for stamps, as per following forms, viz: Form 68, $; Form 76, $; Form 90, $; Form 103, $ .....
25. " amount of taxes collected in advance of receipt of list.
26. " amount deposited in excess.....

$164,498.41

Dated at Brownsville, Texas, this 10th day of August, A. D. 1866.

ROBT. B. KINGSBURY,
Collector, Second District of Texas.

[Ed. 8-24—'83-5,000.]

(Indorsed) Division of accounts. (Form 79.) Quarterly account. No. . , collector, district, , quarter ending , 188 . Office of Internal Revenue,, 188 . Respectfully referred to the Fifth Auditor. , deputy commissioner.

80 (Form 79.)

No. 3.—Collector's Quarterly Account, Quarter Ending September 30th, 1866.

The United States (Office Internal Revenue) in account with Robt. B. Kingsbury, collector, 2nd district of Texas.

Dr.

1	To amount credited in last account as "Taxes collected in advance of receipt of list"		
2	To amount credited in last account as "Cash deposited in excess"		
3	" amount of errors in former accounts, viz:		
4	" amount of cash deposited collected after July 1		30,033.55
5	" amount of taxes abated by Commissioner, as per orders of abatement, viz: No. , $; No. , $ ..... $ No. , $; No. , $ ..... $		
6	" amount of claims for credit allowed under Fifth Auditor's circular, No. 15, as per Revenue Report No.		
7	" amount of taxes transferred to		
8	" amount of taxes collected by predecessor on lists receipted for by me		
9	" amount of 7½ per cent. discount on face value of beer stamps sold		
10	" amount of special-tax stamps and coupons returned		
11	" " " tobacco, cigar, and cigarette stamps and coupons returned		
12	" amount of spirit stamps and coupons returned		
13	" " " beer stamps returned		
14	" amount of stamps issued specially by order of Commissioner Int. Rev., viz, special tax, $; tobacco, &c., $; spirit, $; beer, $		
15	" amount of stamps transferred to successor, viz, special tax, $; tobacco, &c., $; spirit, $; beer, $		
16	" balance due United States, viz:		
	Cash on hand	$ 15,344.60	
	Special-tax stamps on hand	$	
	Tobacco, cigar, and cigarette stamps on hand	$	
	Spirit stamps on hand	$	
	Beer stamps on hand	$	
	Uncollected taxes on hand	$197,453.22	
			212,797.82
			$242,831.37

Cr.

17	By balance due U. S., as per last account rendered, No. 2.	92,499.41	92,499.41
18	" amount of errors in former accounts, viz:		
19	" amount collected on lists receipted for by successor		
20	" amount of taxes received from		
21	" amount of taxes receipted for on Form 23½, viz:		
	List for month of May, 1866	$ 47,451.56	
	List for month of annual, 1866	$ 83,592.31	
	List for month of , 188	$	
	List for month of , 188	$	
			131,043.87

22 " amount of stamps received, viz:

Month.	Special tax.	Tobacco, &c.	Spirit.	Beer.
, 188	$	$	$	$
, 188	$	$	$	$
, 188	$	$	$	$
From predecessor	$	$	$	$

RECAPITULATION.

	From Commissioner.	From predecessor.		
Special tax ...	$	$		
Tobacco, &c..	$	$		
Spirit	$	$		
Beer	$	$		
23 By amount excess abated or collected on lists				
24 " amount excess in accounting for stamps, as per following Forms, viz, Form 68, $; Form 76, $; Form 90, $; Form 103, $				
" amount of taxes collected in advance on receipt of list				
25 By amount collected for which items no receipt has been given to the assessor on either Form 23½ or 59			19,288.09	19,288.09
26 " amount deposited in excess				
			$242,831.37	242,831.37

Dated at Brownsville, Texas, this 30th day of Sept., A. D. 1866.

ROBT. B. KINGSBURY,
Collector 2d District of Texas.

[Ed. 8-24-'83—5,000.]

(Indorsed:) Division of Accounts. (Form 79.) Quarterly Account, No. , Collector, District, . Quarter ending , 188 . Office of Internal Revenue, 188 . Respectfully referred to the Fifth Auditor. , deputy commissioner.

81 (Form 79.)

NO. 4.—COLLECTOR'S QUARTERLY ACCOUNT. QUARTER ENDING DEC. 1, 1866, INCLUDING SUBSEQUENT AMOUNTS COLLECTED OR DEPOSITED TO CLOSE OF OFFICE.

The United States (office internal revenue) in account with Robert B. Kingsbury, collector 2d district of Texas.

DR.

1. To amount credited in last account as "Taxes collected in advance of receipt of list"			
2. To amount credited in last account as "Cash deposited in excess"			
3. To amount of errors in former accounts, viz:			
4. " amount of cash deposited, collected after July 1	132,908.57		132,908.57
5. " amount of taxes abated by Commissioner on account of error or insolvency, under sections 34 and 44, as per orders, herewith returned as vouchers	330.24		330.24
No. , $; No. , $ ..... $			
No. , $; No. , $ ..... $			
6. " amount of claims for credit allowed under Fifth Auditor's circular, No. 15, as per revenue report, No. ..			
7. " amount of taxes transferred to successor	18,225.13		18,225.13
8. " amount of taxes collected by predecessor on list receipted for by me			
9. " amount of 7½ per cent. discount on face value of beer stamps sold			
10. " amount of special-tax stamps and coupons returned..			
11. " " " tobacco, cigar, and cigarette stamps and coupons returned			

(Form 79.)—No. 4.—Collector's Quarterly Account, etc.—Continued.

Dr.

12. To amount of spirit stamps and coupons returned.....
13. " " " beer stamps returned.....
14. " amount of stamps issued specially by order of Commissioner Int. Rev., viz: Special tax, $; tobacco, &c., $; spirit, $; beer, $ .....
15. " amount of stamps transferred to successor, viz: Special tax, $; tobacco, &c., $; spirit, $; beer, $ .....
" amount of bonded goods removed from the district, and duties paid elsewhere, which have been included on assessment rolls receipted for..... 236.64 — 236.64
16. " balance due the United States, viz:

Cash on hand	$ 28,774.15	
Special-tax stamps on hand	$	
Tobacco, cigar, and cigarrette stamps on hand	$	
Spirit stamps on hand	$	
Beer stamps on hand	$	
Uncollected taxes on hand	$178,991.45	
		$207,765.60
		359,466.18

Cr.

17. By balance due U. S., as per last account rendered, No. 3. 212,797.82 — 212,797.82
18. " amount of errors in former accounts, viz:
19. " amount collected on lists receipted for by successor..
20. " amount of taxes received from .....
21. " amount of taxes receipted for on Form 23½, viz:
List for month of , 188 ..... $
List for month of , 188 ..... $
List for month of , 188 ..... $
List for month of , 188 ..... $
22. " amount of stamps received, viz:

Month.	Special tax.	Tobacco, &c.	Spirit.	Beer.
, 188	$	$	$	$
, 188	$	$	$	$
, 188	$	$	$	$
From predecessor..	$	$	$	$

RECAPITULATION.

	From commissioner.	From predecessor.
Special tax	$	$
Tobacco, &c	$	$
Spirit	$	$
Beer	$	$

23. By amount excess abated or collected on lists .....
24. " amount excess in accounting for stamps, as per following forms, viz: Form 68, $; Form 76, $; Form 90, $; Form 103, $ .....
25. " amount of taxes collected in advance of receipt of list.
26. " amount deposited in excess.....

Collector, *District,*

Dated at Washington, D. C., this 26th day of June, A. D. 1867.
[Ed. 8-24-'83—5,000.]

(Endorsement :) Exhibit A. Division of accounts. (Form 79.) Quarterly account, No. . collector, district, . Quarter ending , 188 . Filed April 28, 1882. W. C. Robards, cl'k. Office of Internal Revenue, , 188 . Respectfully referred to the Fifth Auditor. , deputy commissioner.

82 In circuit court United States, &c., western dist. Texas.

THE UNITED STATES
vs.
ROBERT B. KINGSBURY ET ALS.

Now comes William J. Phillips, Simon Mussina, and R. N. Lane, of defendants herein, leave of the court first had and obtained, and supplement the original answer of said def't Lane, filed herein May 12th, 1881, and the original answers of said def'ts Phillips and Mussina, filed herein April 26th, 1882, and also herein answering the first amended petition of plaintiff filed herein April 28th, A. D. 1882, and say, and each for himself says, in answer to plaintiff's said first amended petition, that the said first amended petition of plaintiff is insufficient in the law and shows no cause of action against these defendants to cause or require them to answer thereto, and of this they pray judgment thereon, and to be herein dismissed and for their costs.

JAMES B. WELLS, JR.,
Of Counsel for said Def'ts.

And now again come defendants named, solely in event of their foregoing demurrers being overruled and saving to themselves all benefit of the same, and for further answer assign the following causes of special demurrer to said first amended petition of plaintiff herein, to wit :

1. The said petition shows no cause of action against these defendants, because the so-called bond, upon and by virtue of and for an alleged
83 breach of conditions of which these defendants are sued, is not known to the law, and is altogether null and void, and of no force or effect.

2. Because the said pretended bond is given by, and by its terms binds, no officer known to or recognized by the laws of these United States.

3. Because the said pretended bond is not conditioned as required by the statutes under which it is pretended to have been given.

4. Because from the alterations upon the face of said pretended bond it has become and is null and void.

5. Because the said pretended bond is not taken under, and is not at all pursuant to, the act of Congress which alone authorizes any such bond, and as it the said bond herein as claimed and pretended to be.

6. Because the said pretended bond and the condition thereof are not pursuant to the act of Congress under which it is pretended to have been taken and which alone authorizes any such bond as the said bond is pretended to be, the said pretended bond and the condition thereof altogether enlarging, increasing, and materially altering the liability of the sureties, these defendants, from that contemplated and provided for by the express terms of the said act of Congress by force of which the said pretended bond became and is void and of no force and effect.

6½. Because said pretended bond is vague, uncertain, insufficient, unknown to and unauthorized by law, because therein no district,
84 State, or Territory is mentioned or set out within which, or as an officer of which, the said Kingsbury was to exercise the *the* functions of said officer, if at all, within these United States or within which the condition of said pretended bonds to a performance of his duties, or fixes his scope, measure, or thereof.

7. Because there exists a variance between the allegations in the said first-amended pe'tion of plaintiff herein and the said pretended bond declared on therein, and for an alleged breach of the conditions of which plaintiff sues herein, in this, to wit:

1. In plaintiff"s said amended petition said principal defendant, Kingsbury, is sued by virtue of having been and described as "collector of internal revenue," &c., whereas in said pretended bond his official name and character is set out as "collector of taxes."

2. In plaintiff"s said amended petition said principal defendant, Kingsbury, is sued by virtue of having been and described as "collector of internal revenue for the Second district of Texas," whereas in said pretended bond he is not named or described as collector of said Second district or State of Texas or of any district, State, or county whatever.

3d. In plaintiff"s said amended petition the penalty of said pretended bond is described and set out as of the sum of "fifty thousand dollars," &c., whereas the actual penalty of said pretended bond as shown thereby is not at all in said *said* sum, but in a much greater sum, to
85 wit, in that of "fifty thousand thousand dollars."

8. Because plaintiff"s said amended petition is vague, uncertain, and indefinite in that it does not set forth the date of the appointment of said Kingsbury as collector of internal revenue or by whom or how appointed or the length of the term of the said appointment or when such appointment ceased to be of effect and ended.

9. Because plaintiff"s said amended petition is vague, uncertain, and indefinite in that it does not show when or between what dates the aleged defalcation occurred, nor does it show by any statement accounts, dates, or items when or how said defalcation or collection of moneys not paid over took place or occurred; or that said defalcation took place at all.

JAMES B. WELLS, JR.,
Att'y for Defendants.

Now, again, come the said defendants, in event of each and all of their foregoing demurrers being overruled, and solely in that event, especially reserving unto themselves all benefit of the same and supplementing their said original answers filed herein—leave of the court being first had—further answering say that as to the said bond of the said Robt. B. Kingsbury, collector, &c., which fully appears as an exhibit to plaintiff"s
86 amended petition herein and for an alleged breach of the condition of as sureties upon which these defendants are sued herein, that these defendants and each of them have hitherto well and truly observed, performed, fulfilled, and kept all and singular the covenants, articles, clauses, provisos, conditions, and agreements in the said bond comprised and mentioned, which on the part and behalf of them the said defendants or either of them were or ought to be observed, performed, fulfilled, or

kept, and especially those of which a breach is alleged by plaintiff according to the true intent and meaning of the said bond or the condition thereof.

And this the said defendants—and each of them—are ready to verify. Wherefore they pray judgement, if the said plaintiff ought to have and maintain the aforesaid action thereof against them, and of this they put themselves upon their country.

JAMES B. WELLS, JR.,
Att'y for Defendants.

Now, again, come these defendants solely and only in event of their foregoing demurrers and pleas being not sustained, and especially reserving unto themselves all benefit of the same, for further answer say that the principal defendant herein, said Kingsbury, was on the twenty-first day of June, A. D. 1865, commissioned as collector of internal revenue for the Second district of Texas, by the President of the United States,
87 said commission to last or hold until the end of the then next session of the Senate of the United States & no longer, and the end of such session of the said Senate took place on the twenty-eighth day of July, A. D. 1866, and that the said Kingsbury was not by said Senate or any other body or power re-appointed to or continued in said office other than by the aforesaid commission, wherefore his term of office expired and in all things terminated on said date, to wit, on said 28th day of July, 1866; therefore no liability for any of the acts or doings of said Kingsbury could or did accrue to these defendants, or either of them, after said date by virtue of being sureties of the said Kingsbury upon the bond if given under said commission, which is not admitted. And further that if any defalcation whatever as alleged in plaintiff's said amended petition—which is not admitted—the same took place after the said 28th day of July, A. D. 1866, wherefore these defendants, or either of them, are not at all liable or responsible therefor. And this these defendants are ready to verify. Wherefore they pray judgment whether plaintiff can have or maintain this action against them, and of this they put themselves upon their country, &c.

JAMES B. WELLS, JR.,
Att'y for Defendants.

Now again come these defendants in the event only of their foregoing demurrers & pleas being overruled, & saving unto themselves all
88 benefit of the same, further answering, say, that the said principal defendant, Kingsbury, did on or about the 16th day of December, 1867, have a full, complete, and final settlement with the proper accounting officers of the United States, with the Commissioner, Comptroller and others, as provided & required by law of all the accounts, acts, and dealings of him, the said Kingsbury, as said collector of internal revenue, and that thereupon said Kingsbury was found and adjudged by the said accounting officers to have in all things complied with the law as such officer and to not be at all in default or in debt to the United States, but, on the contrary, there was then and there found a cash balance due the said Kingsbury the sum of $6,123\frac{13}{100}$, which was then and there paid to him, as will more fully appear by the "Fifth Auditor's final report, No. 1845, on account of Robt. B. Kingsbury, late collector & disbursing agent for the second district of Texas, &c.;" that by force of said settlement

and payment all the matters, things, &c., in anywise pertaining to the office, bond, &c., of said Kingsbury as such said officer were fully and finally settled, terminated, & discharged & adjudicated, and these sureties thereby fully and forever released, and all the matters pertaining thereto are res adjudicata. And this these defendants are ready to verify. Wherefore they pray judgement the plaintiff can have or maintain this
89 aforesaid action against them, and of this they put themselves upon their country, &c.

JAMES B. WELLS, JR.,
Att'y for Def'ts.

Now again come these defendants, and solely & only in event of their foregoing pleas & demurrers being not sustained, and especially reserving to themselves all benefit of the same, further answering, say that the said Kingsbury, principal defendant herein, at the expiration of his said term of office was succeeded in said office by one R. H. Lane; that in accordance with the provisions of the law in such cases made and provided, he, the said Kingsbury, turned the rolls of uncollected taxes then in his hands over to *over to* the Gov't, to wit, the pl'ff herein, & they were by said pl'ff turned over to his said successor; that the said successor refused to receipt to him, the said Kingsbury, for the said rolls, but did officially take from the Government, plaintiff herein, the said rolls into his, the said Lane's, and by and with the authority, consent, and concurrence of pl'ff herein as her proper officer and of her proper officers & departments, and by virtue of his, the said Lane's, office, proceed to collect the amount due upon said rolls; that the defalcation now herein complained of by the pl'ff herein, occurred by the acts of the said Lane and not by any acts of said Kingsbury for which these defendants are liable or can be held responsible.

That the said Government, the plaintiff herein, has continued ever since to turn said rolls, or the parts thereof uncollected, over to its offi-
90 cers, the different successors of the said Kingsbury, to wit, to said R. H. Lane, L. G. Brown, W. A. Saylor, and W. H. Sinclair.

That upon said rolls so turned over by the Government to said Lane and his successors was the sum of $194,356.14, uncollected taxes, which sum has been by the proper departments of the United States, plaintiff herein, and the said different successors of the said Kingsbury collected, settled, abated, and adjusted as follows, to wit:

Uncollected taxes		$194,356.14
Abated by Com'r of Int. Rev	$154,547.03	
Collected by R. H. Lane (successor)	25,390.67	
" " L. G. Brown (")	83.25	
" " W. A. Saylor (")	191.39	
Total	$180,215.34	180,215.34
Balance uncollected taxes on said rolls		$14,140.80

And that the said balance of $14,140.80, uncollected taxes on said rolls, is the identical matter, item, and amount for which plaintiff sues herein, and none other. Wherefore these defendants say they are not liable as charged & claimed in plaintiff's petition, or at all, and this they are ready

to verify. Wherefore they pray judgement whether plaintiff can have or maintain her aforesaid action against them; and of this they put themselves upon their country, &c.

JAMES B. WELLS, Jr.,
Attorney for Def'ts.

91 THE STATE OF TEXAS,
County of Cameron, United States of America:

William J. Phillips, in his own proper person, upon his oath says that he is the identical William J. Phillips who is defendant herein, & that for himself & his co-defendants herein, he says that all the matters & facts set forth herein, and in his and their original and amended answers in this cause are true.

WM. J. PHILLIPS.

Subscribed and sworn to before me this 1st day of May, A. D. 1882.

DUVAL BEALL,
U. S. Cu. Ct. Clk., W. D. Texas.

(Endorsed in the following words, to wit:) 230, law. The United States vs. R. B. Kingsbury et als. First supplemental answer of defts. Phillips, Lane & Mussina. Filed May 1st, 1882. D. Beall, clk. Filed this 31 day of July, A. D. 1885. Sam Hopkins, clerk circuit court.

In circuit court of United States, western district of Texas.

UNITED STATES
vs.
R. B. KINGSBURY ET AL.

Now comes R. B. Kingsbury, principal defendant herein, leave of the court being first had and obtained, who supplements his first amended answer filed herein, on the 13th day of May, A. D. 1881, and so supplementing said pleading, says:

92 That he now here makes his own, the first supplemental answer of defendants Phillips, Lane, and Mussina, filed in this cause on this day, and adopts each and every demurrer, plea, affidavit, & fact pleaded and set up therein, save and except those which in their terms apply to said Phillips, Lane, & Mussina as sureties, especially demurrers general and special, the plea of performance, and denial of any breach of the bond sued on herein, the plea of settlement, discharge, & res adjudicata, and the final plea therein, which sets forth his, defendant's, settlement, and the various acts, collections, & default of A. H. Lane, and his other successors. Wherefore he prays as in said supplemental answer, &c.

R. B. KINGSBURY, of deft.,
By JAMES B. WELLS, Jr.,
Attorney.

(Endorsed in the following words, to wit:) No. 230, law. The United States vs. Robt. B. Kingsbury et al. First supplemental answer of deft. Kingsbury. Filed May 1, 1882. D. Beall, clk. Filed this 31 day of July, A. D. 1885. Sam. Hopkins, clerk circuit court. J. B. Wells, attorneys for defts.

93 [Office of the Register of the Treasury. Form No. 1.]

Transcript certificate.

TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., August 11th, 1880.

Pursuant to section 886 of the Revised Statutes of the United States, I, G. W. Scofield, Register of the Treasury Department, do hereby certify that the annexed is a true copy of the official bond of Robert Bates Kingsbury, late collector of internal revenue for second district of Texas, dated July 8, 1865, on file in this Department.

[S. A. J.] G. W. SCOFIELD,
Register.

Be it remen.bered that G. W. Scofield, esqr., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof, I, John Sherman, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department, at the city of Washington, this 11th day of August, in the year of our Lord 1880.

[SEAL.] JOHN SHERMAN,
[M.] *Secretary of the Treasury.*

94 (Copy.)

Know all men by these presents: That we, Robert Bates Kingsbury, of Brownsville, Cameron County, Texas; William Joseph Phillips, of Wharton County, in the State of Texas; Charles Worthington, Corpus Christi, State of Texas; Richard N. Lane, Austin, Texas; Sam'l F. Barr, of Harrisburg, Penn., and Simon Mussina, of New York City, N. Y., are held and firmly bound unto the United States of America in the full and just sum of fifty thousand dollars, money of the United States, to which payment well and truly to be made, we bind ourselves, jointly and severally, our joint and several heirs, executors, administrators, firmly by these presents, seal with our seals, and dated this 8th day of July, in the year one thousand eight hundred and sixty-five. The condition of the foregoing obligation is such that, whereas the President of the United States hath, pursuant to law, appointed the said Robert Bates Kingsbury collector of taxes, under an act entitled "An act to provide internal revenue to support the Government to pay interest on the public debt, and for other purposes."

Now, therefore, if the said Robert Bates Kingsbury shall truly and faithfully execute and discharge all the duties of the said office ac-
95 cording to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and if each and every deputy collector appointed by said collector shall truly and faithfully execute and discharge all the duties as such deputy collector according to law, then the above

obligation to be void and of no effect; otherwise it shall abide and remain in full force and virtue.

ROBERT BATES KINGSBURY. [SEAL.]
WILLIAM JOS'H PHILLIPS. [SEAL.]
CHAS. WORTHINGTON. [SEAL.]
RICHARD NEWTON LANE. [SEAL.]
SAMUEL F. BARR.
SAMUEL MUSSINA. [SEAL.]

Seal' and delivered in the presence of as to R. B. K. & W. J. P.: N. Callan, jr.; N. Callen. N. Callen as to C. Worthington. C. H. Wilebergen, do. As to R. N. L. and S. F. B. & S. M.; N. Callen, jr.; N. Callan.

($100 stamp. R. B. K. July 8th, 1865. $100.)

96 TREASURY DEPARTMENT, SOLICITOR'S OFFICE,
July 26th, 1865.

I have examined the within bond and find it to be executed in proper form, and I approve the sureties thereto as sufficient.

EDWARD JORDAN,
Solicitor of the Treasury.

(Endorsed in the following words, to wit:) Robert B. Kingsbury, collector's bond for the 2 dis., Texas. Dated July 8th, 1865. Approved July 26th, 1865. Respectfully referred to the Solicitor of the Treasury for approval. E. A. Rollins. Certified copy of bond. Exhibit A, fil*d*ed April 28, 1882. W. C. Robards, cl'k.

97 OATH OF OFFICE.

DISTRICT OF COLUMBIA,
County of Washington, to wit:

I, Robert B. Kingsbury, do solemnly swear, with the annexed exceptions, that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted, nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States hostile or inimical thereto.

And I do further swear that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to *to* the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

98 ROBT. B. KINGSBURY.

Sworn and subscribed before me this 17th day of July, A. D. 1865.

[SEAL.] N. CALLAN,
Notary Public.

(5 cent, 5. July 17, 1865. 5 cents, 5.)

99 I was deputy collector of customs under the U. S. Gove'm't when the rebellion commenced and held that office under rebel authority, as I feared for my personal safety if I resigned at that time, but subsequently resigned, giving to the collector as a reason for resigning the fact of my being a Union man; was also an alderman of the city of Brownsville, Texas, under rebel authority, which position was almost nominal, and was held by me previous to the war; have been a member of a military company for home service or protection. I opposed the ordinance of secession, and have been from the commencement of the rebellion a sincere and earnest Union man. I may have given aid, counsel, countenance, or encouragement to persons engaged in armed hostility to the United States, as I have dealt with and paid money to individual rebels, and taxes to rebel authorities, and conformed unwillingly in various ways perhaps to rebel rule, but abandoned my property in Texas subsequently, and was an exile at the time of Kirby Smith's capitulation, and have the pardon of the President.

(Signed) ROB'T B. KINGSBURY.

Robert B. Kingsbury, collector 2d dist. Texas, July 17, '65. Oath of allegiance.

AFFIDAVIT.

100 DISTRICT OF COLUMBIA,
County of Washington:

I solemnly swear that I own and possess property worth ten thousand dollars over and above my debts and liabilities.

WILLIAM JOSEPH PHILLIPS.

Sworn and subscribed before me this eighth day of July, A. D. 1865.
[SEAL.] N. CALLAN,
Notary Public.

(Stamp:) [5 cents, 5. July 12, 1865. 5 cents, 5.]

DISTRICT OF COLUMBIA,
County of Washington:

I solemnly swear that I own and possess property worth ten thousand dollars over and above all my debts and liabilities.

CHARLES WORTHINGTON.

Sworn and subscribed before me this 13th day of July, A. D. 1865.
[SEAL.] N. CALLAN,
Notary Public.

(Stamp:) [5 cents, 5. July 13, 1865. 5 cents, 5.]

101 DISTRICT OF COLUMBIA,
County of Washington:

I solemnly swear that I own and possess property worth ten thousand dollars over and above all my debts and liabilities.

R. N. LANE.

Sworn to and subscribed before me this 13th day of July, A. D. 1865.
[SEAL.] N. CALLAN,
Notary Public.

(Stamp:) [5 cents, 5. July 13, 1865. 5 cents, 5.]

102 DISTRICT OF COLUMBIA,
County of Washington:

I solemnly swear that I own and possess property worth ten thousand dollars over and above all my debts and *exhibits.*

SAMUEL F. BARR.

Sworn to and subscribed before me this 15th day of July, A. D. 1865.
[SEAL.] N. CALLAN,
Notary Public.

(Stamp:) [5 cents, 5. July 15, 1865. 5 cents, 5.]

DISTRICT OF COLUMBIA,
County of Washington:

I solemnly swear that I own and possess property worth ten thousand dollars over and above all my debts and liabilities.

SIMON MUSSINA.

Sworn to and subscribed before me this 25th day of July, A. D. 1865.
[SEAL.] N. CALLAN,
Notary Public.

(Stamp:) [5 cents, 5. July 25, 1865. 5 cents, 5.]

103 (Endorsed in the following words, to wit:) Robert B. Kingsbury. Collector's bond for the 2d dis., Texas, dated July 8th, 1865, approved July 26th, 1865. Respectfully referred to the Solicitor of the Treasury for approval. E. A. Rollins. Certified copy of bond, Exhibit A, filed April 28, 1882. W. C. Robards, cl'k.

104 In the circuit court for the western district of Texas, at Brownsville, Texas.

THE UNITED STATES *vs.* R. B. KINGSBURY ET AL. } No. 2306. Law.

Now comes the plaintiff, by her attorney, and excepts to, and moves the court to strike out from the record the following pleadings of defendants, to wit:

1. Special plea found commencing on page 6 of defendants' pleading, filed in this cause on May 1st, 1882, and which attempts to set up the fact that R. B. Kingsbury was not collector of customs from and after 28th day of July, 1866, because if the said pleading is true, which is not confessed but is denied, the same presents no defense good in law in this case.

2. Special plea found commencing on page 7 of the pleading, in exception one above, wherein the said def't's attempt to set up a final settlement and payment on the part of said Kingsbury of all indebtedness due by him, because said pleadings, if true, which is not confessed but denied, presents no defense good in law, for no officers, save and except the Secretary of the Treasury of the United States, could award a release to the said Kingsbury for any indebtedness due from him to the United States of America.

3. Special pleading commencing on page 9 of the pleading named in exception 1 & 2 above, and wherein the said def't's attempt to plead offsets in the form of uncollected taxes turned over to successor in office,

because said pleading, if true, which is not confessed but denied, does not attempt to specify, as they were bound to do, any item or items
105 of uncollected taxes turned over by said Kingsbury to successors of said Kingsbury, which uncollected or unabated, and in the absence of such allegations and specification and proof the to the contrary, the presumption of law is that the successor of the said Kingsbury faithfully collected and paid over, or had properly abated, every dollar of taxes due in the lists received by from him, and further, specially in said pleadings it is not alleged that the offsets therein set out have been presented to the accounting officers of the Treasury and by them rejected or disallowed in whole or in part, as required by law.

A. J. EVANS,
U. S. Att'y.

(Endorsed in the following words, to wit:) No. 230, 1996. The United States vs. R. B. Kingsbury et al. Pl'ffs, except. to deft. 1st sup. ans. Filed May 5, 1882. Duval Beall, clk. Filed this 31 day of July, A. D. 1885. Sam Hopkins, clerk circuit court.

106 Andrew Johnson, President of the United States of America, to all to whom these presents shall come, greeting:

Know ye, that reposing special trust and confidence in the integrity, diligence, and discretion of Robert B. Kingsbury, I do appoint him collector of internal revenue for the second district of Texas, and do authorize and empower him to execute and fulfil the duties of that office according to law; and to have and to hold the said office, with all the rights and emoluments thereunto legally appertaining unto him, the said Robert B. Kingsbury, during the pleasure of the President of the United States for the time being, and until the end of the next session of the United States, and no longer.

In testimony whereof, I have caused these letters to be made patent, and the seal of the Treasury Department of the United States to be hereunto affixed.

Given under my hand at the city of Washington this twenty-first day of June, in the year of our Lord one thousand eight hundred and sixty-five, and of the Independence of the United States of America the eighty-ninth.

ANDREW JOHNSON.

By the President:
[SEAL.]

HUGH M. C.,
Secretary of the Treasury.

(Endorsed in the following words to wit:) Filed May 6, 1882, Duval Beall, clerk.

107 In the honorable United States circuit court for the 5th circuit & western district of Texas, holding sessions in the city of Brownsville in said district, at its April term, 1882.

UNITED STATES
vs.
ROBERT BATES KINGSBURY ET AL. } No. 230.

Now comes the United States, by her attorney, and in form of law moves the court to set aside the verdict of the jury and judgment of the court

rendered at this term to wit, on May 8th, 1882, and grant a new trial to the plaintiff.

Because the court erred in overruling plaintiff's exception to deft's pleadings, as will more fully appear by bill of exceptions No. 1st, filed in this cause.

Because the court erred in overruling the exceptions of plaintiff to the admission of the letters of E. A. Rollins, Commissioner, to Comptroller R. W. Taylor, of date Dec. 16th and 17th, 1867 (see bill of exception No. 2d for particulars).

Because the court erred in its instructions to the jury to find a verdict for defendants (see bill of exception No. 3).

Because the verdict of the jury on the evidence before them should have been for the plaintiff for her debt of $14,170.20, with interests and costs, and not for defendants.

ANDREW J. EVANS,
U. S. Att'y.

108 (Endorsed in the following words, to wit:) 230. United States vs. Robert Bates Kingsbury et al. Motion for new trial. Filed May 9, 1882. Duval Beall, cl'k. Filed this 31 day of July, A. D. 1885. Sam Hopkins, clerk circuit court.

108½ In the United States circuit for the 5 circuit and western district of Texas, holding sessions in the city of Brownsville.

UNITED STATES
vs.
ROBT. BATES KINGBURY ET AL. } No. 230.

To the honorable Morrison R. Waite, Chief-Justice of Supreme Court of the United States of America, now appears the United States of America, by her attorney, and most respectfully says, that on the 6th day of May, A. D. 1882, the honorable United States circuit court for the western district of Texas, in the above numbered and styled cause, did render its final judgment—that the plaintiff take nothing by her suit, and that defendants go hence without day, and farther, that there is manifest error and wrong in said judgment aforesaid to her great damages, and farther she most humbly prays for her of error, to said honorable United States circuit court, and that the said aforesaid final judgment be reversed and set aside in all things, and that defendants have notice.

ANDREW J. EVANS,
U. S. Att'y.

108¾ (Endorsed in the following words, to wit:) No. 230. 1996. United States vs. Robert Bates Kingsbury et al. Petition for writ of error. Filed May 9, 1882. Duval Beall, clk. Filed this 31 day of July, A. D. 1885. Sam Hopkins, clerk circuit court.

109 In the honorable United States circuit court for the 5th circuit and western district of Texas, holding sessions in the city of Brownsville, in said district, at April term, 1883.

Now comes the United States of America, by her attorney, and, leave of the court first had, amends her original petition in this

cause, filed on the 28th day of February, 1881, and so amending saith, that the plaintiff, the United States, before your honors, judges of the said court, complains of William Joseph Phillips, who is a resident citizen of Wharton County and eastern district of Texas, and State of Texas, and one Charles Worthington, who is a resident citizen of the county of Nuesces and the western district of Texas, and one Richard N. Lane, who is a resident citizen of the county of Travis and the State of Texas and western district of Texas, and one Samuel F. Barr, who is a non-resident citizen of Texas, and one Simon Mussina, who is a resident citizen of Galveston County, Texas, and one Robert Bates Kingsbury, who is a resident citizen of Cameron County and State of Texas and western district of Texas, and, so complaining, the plaintiff would most respectfully represent, that on the 8th day of July, 1865, the said Robert Bates Kingsbury was collector of internal revenue for the second district of Texas, and that upon thaat day he, the said Robert Bates Kingsbury, as principal, and the said Phillips, Worthington, Lane, Barr, and Mussina as sureties,
110 did make, execute, and deliver to plaintiff their joint and several penal bond or obligation, of date July 8th, 1865, in the sum of "fifty thousand" dollars, but which reads by clerical error therein "fifty thousand thousand dollars," conditioned, among many other things, substantially as follows:

That "whereas the President of the United States hath, pursuant to law, appointed the said Robert Bates Kingsbury collector of taxes under an act entitled An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes, now, therefore, if the said Robert Bates Kingsbury shall truly and faithfully execute and discharge all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and if each and every deputy collector appointed by said collector shall truly and faithfully execute and discharge all the duties of such deputy collector according to law, then the above obligation to be void, otherwise it shall abide and remain in full force and virtue," and which is signed and sealed, &c., &c. Plaintiff avers that the said Robert Bates Kingsbury, by virtue of his appointment as collector of taxes, as set out in his said bond aforesaid, did enter upon the discharge of his duties as collector of internal revenue for the second collection district of Texas under
111 his said bond aforesaid on the day of 1865, and did continue in the said office until the day 187 , and until his successor in office was appointed and qualified and received the office from him, the said Kingsbury.

And plaintiff says that the said Robert Bates Kingsbury, during his tenure of office aforesaid, did not abide or conform to any one or all of the conditions and stipulations of his said bond, but instead thereof did commit divers and various breaches and violations thereof, and an action at law has accrued to her, as follows, to wit:

From and after said 8th day of July, 1865, and during his continuance in office under said bond aforesaid, there came into the hands of him, the said Robert Bates Kingsbury, by virtue of his office as collector of internal revenue of the 2d district of Texas, large sums of money, the

property of plaintiff, of great value, from taxes collected by him, and from stamps sold by him, and from other proper sources; and which sums of money, he, the said Robert Bates Kingsbury, was and is bound, under his said bond, to pay over to plaintiff, but which said sums he, the said Kingsbury, has heretofore failed, neglected, and refused to pay over or account for to plaintiff, as bound to do, by virtue, of his office and bond aforesaid, to the great damage of plaintiff, in the sum of thirty thousand dollars.

And plaintiff avers that the said Robert Bates Kingsbury, whilst collector aforesaid of the 2d district of Texas, did take and re-
112 ceive into his hands many and divers lists of taxes assessed in plaintiff" favor and against her citizens, as will fully appear from "Exhibit A," filed here on official form No. 23½, and which assessed taxes were duly turned over to him, the said Kingsbury, for collection, but that the said Kingsbury, instead of collecting the same, as bound by law and his bond to do, did utterly neglect, fail, and refuse to collect the same, and refuse any and all efforts to so do, to the great injury, loss, and damage of plaintiff, to wit, the sum of thirty thousand dollars. Plaintiff further avers that from time to time the defendants, Robert Bates Kingsbury, as collector of the third district of Texas, did receive into his hands for collection and payment over to plaintiffs certain lists of taxes assessed, according to sect. 18th of the act July 1st, 1862, 12 St. at Large, page 438, and which he, the said Kingsbury, was bound to collect under the provisions of sect. 19 of said act, and other laws and regulations, and to diligently use all the means and powers granted to him in said section 19th and other laws and regulations aforesaid, but that he, the said Robert Bates Kingsbury, did utterly fail, neglect, and refuse to use any or all of the means given to him by said sect. 19th and other laws and regulations to collect large sums of assessed taxes, as aforesaid, found on said lists, and by such failure, neglect, and refusal did render himself liable on his said bond for all of such assessed taxes not collected, and did place him-
113 self and his bondsmen and sureties in a condition of liability for said sums of uncollected taxes.

Plaintiff avers, more specifically, that among the moneys specified above as collected by and coming into the hands of the said Robert Bates Kingsbury by virtue of his office as collector of the 3rd district of Texas is and was the sum of fourteen thousand one hundred and seventy dollars and twenty cents, arising from taxes collected by him in person and by his deputies, and from stamps sold by him, and other proper sources, justly chargeable to him under his bond as collector, and which sum he, the said Kingsbury, by virtue of his office and bond aforesaid, was and is bound to pay to plaintiff, but to pay the same, or any part thereof, he and his sureties on said bond have heretofore failed, neglected, and refused, and now fail, neglect, and refuse, although often demanded of them, to the injury and damage of plaintiff, the sum of thirty thousand dollars.

And plaintiff avers, more specifically, that by virtue of the failure of him, the said Robert Bates Kingsbury, to faithfully collect and pay over to plaintiff all the taxes turned over to him for collection as collector of the 2d district of Texas; and by virtue of his failure, neglect, and refusal to employ and use all the means and powers given to him by the 19th sect. of the act of July 1st, 1862, and other laws and regulations, to collect large sums of taxes duly and legally assessed and turned over to him,

the said Robert Bates Kingsbury, as collector of the 2d collection
114 district of Texas for collection, and for the collection of which he, the said Kingsbury, is now and ever has been unable to prove to the satisfaction of Commissioner of Internal Revenue that due dil/igence was used, and that the said aforesaid failure to collect assessed taxes turned over to him, said Kingsbury, for collection, and failure to use due dil/igence to collect the same constitute a breach of his said bond, and to the injury and damage of this plaintiff, the full sum of $14,170.20, that is to say, the said Robert Bates Kingsbury, as collector of the 2d district of Texas, did fail, neglect, and refuse to collect, and neglect, fail, and refuse to use due and legal dil/igence to collect the said sum of $14,170.20, taxes duly assessed and turned over to him for collection, and thereby the same was and is lost to the plaintiff, and the defendant and his said sureties on his said official bond are liable therefor to the plaintiff as cash money, and which sum has long since been due, and is still due and unpaid, though often demanded of him, the said Kingsbury, and sureties.

Plaintiff avers that upon his introduction into office the plaintiff opened with the defendant as collector of internal revenue of the 2d district of Texas, a treasury account in the books of the Treasury of the United States of America, and charged him, the said Robert Bates Kingsbury, as collector, with the whole of taxes by him receipted, in strict accordance with
sect. 24th of the act of Congress of July 1st, 1862, 12 St. at Large,
115 page 442, and sect. 9 of act of Congress of July 13th, 1866, 14 St. at Large, page 110, and duly credited him with all the sums to which he is entitled, and that upon a full, fair, and just adjustment of the accounts of him, the said Robert Bates Kingsbury, as collector of internal revenue for the 2d district of Texas, with the United States of America, there is found due to the said United States from said Robert Bates Kingsbury, collector of the 2d district of Texas, a Treasury balance of the said $14,170.20. And plaintiff herewith files and makes a part of this petition a certified transcript of the accounts of him, the said Robert Bates Kingsbury, from the books and proceedings of the Treasury of the United States, and mark the same "Ex. A." Plaintiff avers that said transcript, "Exhibit A," is filed, first, to be used as pleading, and second, as evidence in the case, and that the same is a full exhibit of the accounts of said Kingsbury, and the balance due from him.

Plaintiff avers that for years and years said account of said Kingsbury was held in the Treasury without suit and full opportunity extended to the said Kingsbury and his sureties to set up claims and credits, if any they could, before suit brought; and plaintiff avers that she has dilligently inquired into every counter-claim or credit claimed or set up by said Kingsbury or his sureties against said account, and has duly allowed him credit and abatement for each and every credit and
116 claim good in law, and allowed him and them all credits that could have a standing in equity and good conscience, and after all this plaintiff says that defendant and sureties are justly due her said sum of $14,170.20, with interest from the date he, the said Kingsbury, ceased to act as collector, to wit: , 1867.

Plaintiff avers that all the credits now claimed in this suit have been either allowed or justly and properly rejected upon a full hearing in the

Treasurer's Department at Washington, and have no standing in this court.

Plaintiff avers that the papers set up in this case as a certificate of due dilligence from the Commissioner of Internal Revenue, being two letters of Com'r Rollins to Comptroller, of date respectively, Dec. 16th and 18th, 1867, do not and were not intended to constitute the certificate of due dilligence contemplated by sect. 3218, R. S.

Because said letters were written exclusively in regard to the settlement of the acc't of Robert Bates Kingsbury as disbursing agent, and not as collector. Because said papers have no "list of the amount of taxes of such persons as may have absconded or become insolvent prior to the day when the taxes ought, according to the provisions of law, to have been collected" accompanying the same.

Because said papers arose in this way, on account of the defective qualification of Mr. Kingsbury (he not being able to take what was
117 general called the iron-clad oath); and the consequent difficulities and embarrassments of his position his peculiar case was regarded and treated as somewhat exceptional. Therefor on his personal application with a view to his relief, as far as practical, by paying him the balance found to his credit in his compensation and disbursing accounts for expenses actual incurred by him, the said correspondence between the Com'r of Internal Revenue and the Comptroller was carried on, and resulted in the payment of said balance in the then pending accounts.

Plaintiff avers that in Dec., 1867, the revenue account of Mr. Kingsbury had not reached the Comptroller for adjustment, wherefore the plaintiff says said papers do not constitute the certificate contemplated by sect. 3218, R. S.

Plaintiff avers that in manner and in form as herein set out and pleaded in full and at length, the said Robert Bates Kingsbury is fully and justly indebted to her in the said aforesaid sum of $14,170.20, and interest thereon from the 1st day of January, 1867; and further, that the said aforesaid sureties, William Joseph Phillips, Charles Worthington, Sam'l F. Barr, and Richard N. Lane, and Simon Mussina, by virtue of their bond aforesaid, a certified copy of which is herewith filed and made part hereof as "Exhibit B," are legally and justly bound to her jointly and severally for said sum of $14,170.20, and interest thereon, wherefore this suit; and
plaintiff prays for service and for a final hearing of all the matters
118 herein, and for judgment for the sum aforesaid of $14,170.20, and interest thereon from the 1st day of Jan'y, 1867, until paid, and for all costs of suit, and for all such general and special relief as in law she is entitled to have, as in duty bound, &c., &c.

A. J. EVANS,
U. S. Att'y.

(Endorsed in the following words, to wit:) No. 230. No. 1996. Law. United States vs. Robert Bates Kingsbury, William Joseph Phillips, Charles Worthington, Richard N. Lane, Sam'l F. Barr, Simon Mussina. Pl'f 1st amended original petition, filed April 30, 1883. D. Beall, clerk. By W. C. Robards, deputy. Filed this 31 day of July, A. D. 1885. Sam Hopkins, clerk circuit court.

119 [Office of the Register of the Treasury. Form 1.]

[M. H. B.] *Transcript certificate.*

TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., October 12, 1882.

Pursuant to section 886 of the Revised Statutes of the United States, I, W. P. Titcomb, Acting Register of the Treasury Department, do hereby certify that the annexed copy of the *of the* original official bond of Robert Bates Kingsbury, late collector internal revenue 2d district, Texas, is a true copy of the original on file in this Department.

W. P. TITCOMB,
[S. A. J.] *Acting Register.*

Be it remembered, That W. P. Titcomb, esq., who certified the annexed transcript, is now, and was at the time of doing so, Acting Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, John C. New, Acting Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department, at the city of Washington, this 12 day of October, in the year of our Lord 1882.

JNO. C. NEW,
Acting Secretary of the Treasury.

120 Know all men by these presents, that we, Robert Bates Kingsbury, Brownsville, Cameron County, Texas; William Joseph Phillips, of Whorten County, in the State of Texas; Charles Worthington, Corpus Christi, State of Texas; Richard N. Lane, Austin, Texas; Sam'l F. Barr, of Harrisburg, Penn.; and Simon Mussina, of New York City, N. Y., are held and firmly bound unto the United States of America, in the full and just sum of fifty thousand *thousand* dollars, money of the United States; to which payment, well and truly to be made, we bind ourselves, jointly and severally, our joint and several heirs, executors, and administrators, firmly by these presents. Sealed with our seals and dated this eight day of July, the year one thousand eight hundred and sixty-five. The condition of the foregoing obligation is such, That whereas the President of the United States hath, pursuant to law, appointed the said Robert Bates Kingsbury collector of taxes, under an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes:" Now therefore, if the said Robert Bates Kingsbury shall truly and faithfully execute and discharge all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and if each
121 and every deputy collector appointed by said collector shall truly and faithfully execute and discharge all the duties of such deputy

collector according to law, then the above obligation to be void and of no effect; otherwise it shall abide and remain in full force and virtue.

ROBERT BATES KINGSBURY. [SEAL.]
WILLIAM JOSEPH PHILLIPS. [SEAL.]
CHARLES WORTHINGTON. [SEAL.]
RICHARD NEWTON LANE. [SEAL.]
SAMUEL F. BARR. [SEAL.]
SIMON MUSSINA. [SEAL.]

Sealed and delivered in the presence of—as to R. B. K. & W. J. P., N. Callan, N. Callan, jr. N. Callan as to C. Worthington. C. H. Wiltburger do. As to R. N. L. & S. F. B. & S. M., N. Callan, jr., N. Callan.

($1 st'p. R. B. K. July 8, 1865. $1 st'p.)

122 (Indorsed:) Robert B. Kingsbury, 2nd dist. Texas. Collector's bond. Respectfully referred to the Solicitor of the Treasury for approval. E. A. Rollins, Deputy Commissioner.

TREASURY DEPARTMENT, SOLICITOR'S OFFICE,
July 26th, 1865.

I have examined the within bond and find it to be executed in proper form, and I approve the sureties thereto as sufficient.

EDWARD JORDAN,
Solicitor.

123 DISTRICT OF COLUMBIA,
County of Washington:

I solemnly swear that I own and possess property worth ten thousand dollars over and above all my debts and liabilities.

SIMON MUSSINA.

Sworn to and subscribed before me this 25th day of July, A. D. 1865.
[NOTARIAL SEAL.] N. CALLAN,
Notary Public.

(5 ct. stamp.)

DISTRICT OF COLUMBIA,
County of Washington:

I solemnly swear that I own and possess property worth ten thousand dollars over and above all my debts and liabilities.

R. N. LANE.

Sworn to and subscribed before me this 13th day of July, A. D. 1865.
[NOTARIAL SEAL.] N. CALLAN,
Notary Public.

(5 cent stamp.)

DISTRICT OF COLUMBIA,
County of Washington:

I solemnly swear that I own and possess property worth ten thousand dollars over and above all my debts and liabilities.

SAMUEL F. BARR.

Sworn and subscribed before me this 15th day of July, A. D. 1865.
[NOTARIAL SEAL.] N. CALLAN,
Notary Public.

(5 cent stamp.)

124 DISTRICT OF COLUMBIA,
County of Washington:

I solemnly swear that I own and possess property worth ten thousand dollars over and above all my debts and liabilities.

CHARLES WORTHINGTON.

Sworn to and subscribed before me this 13th day of July, A. D. 1865.
[NOTARIAL SEAL.] N. CALLAN,
Notary Public.

(5 ct. stamp.)

DISTRICT OF COLUMBIA,
County of Washington:

I do solemnly swear that I own and possess property worth ten thousand dollars over and above my debts and liabilities.

WILLIAM JOSEPH PHILLIPS.

Sworn and subscribed before me this eighth day of July, A. D. 1865.
[NOTARIAL SEAL.] N. CALLAN,
Notary Public.

(5 ct. stamp.)

(Endorsed in the following words, to wit:) #230, U. S. vs. Kingsbury et als. Exhibit B. Filed April 30, 1883. D. Beall, cl'k. By W. C. Robards, d'y.

125 I, Edward McPherson, Clerk of the House of Representatives of the United States, do hereby certify that, as appears by the Journal of the House of Representatives for the 1st session 39th Congress, that body adjourned its session sine die at the hour of four o'clock and thirty minutes p. m., on the twenty-eighth day of July, one thousand eight hundred and sixty-six.

In testimony whereof I have hereunto set my hand and affixed the seal of this office this twenty-ninth day of March, one thousand eight hundred and eighty-two.

[SEAL.] EWD. MCPHERSON.

(Endorsed in the following words, to wit:) Filed May 1st, 1883. D. Beall, cl'k.

126 [S. A. J.]

THE UNITED STATES OF AMERICA,
TREASURY DEPARTMENT,
November 12, 1883.

Pursuant to section 882 of the Revised Statutes, I hereby certify that the annexed are true copies of certain papers on file in this Department.

In witness whereof I have hereunto set my hand and caused the seal of the Treasury Department to be affixed on the day and year first above written.

[SEAL.]
[W. N.] CHAS. J. FOLGER,
Secretary of the Treasury.

127 All official letters to this office must be addressed to the "Commissioner of Internal Revenue," and in replying to letters from this office the marginal initials should be referred to.

[C. H. I. C. H.]

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE, U. S.,
Washington, November 12, 1883.

WM. H. SINCLAIR, Esq.,
Coll. Int. Rev., Galveston, Texas:

SIR: This office has examined the claims of late Collector Robert B. Kingsbury for the abatement as uncollectible of certain taxes amounting to $4,536.03 and $1,061.63.

These claims are hereby rejected except as to the following taxes:

Kyle & Terry	$1,087.60
John H. Hemden	755.00

These taxes appear to have been compromised by the payment of $200 in each case. The amount paid in compromise should be reported to the credit of the assessments. The remainder of these two assessments, to wit, $887.60 and $755.00, may be claimed for abatement on No. 47 and No. 48½ as erroneous.

You or your deputy or any one cognizant of the facts may make the affidavit on $47.

Respectfully,

WALTER EVANS,
Commissioner.

[Revised May 21, 1879.]

Schedule of claims for abatement of taxes alleged to be uncollectible in the first collection district of Texas reported in the several specified lists for 1866, *for which credit is requested, the claims being presented in accordance with the regulations of the Commissioner of Internal Revenue, by William H. Sinclair, collector.*

[Schedules of claims will be returned to collectors unless the pages and lines are filled up in collector's column.]

JANUARY LIST, 1866.

No. of claim.	No. of affidavit.	Name.	Address.	Article or occupation.	Page and line on list in office of Commissioner of Int. Rev.		Page and line on list in collector's office.		Date when list was received for collection.	Name of collector against whom these taxes stand charged.	Amount claimed.	Amount abated as collectible.	Amount rejected.	Remarks.
1	1	Denman & Co	Brenham	Auctioneer	4	6	4	6		R. B. Kingsbury.	4.17			Rejected on order No. 7798
2		Field, J. C	"	R. L. D	4	11	4	10			16.67			"
3		Foxpardy, F. A	Chappell Hill	" " "	4	15	4	17			3.33			"
4		Green, W. H	Brenham				4	30			4.16			"
5		Hurlburt, W. C	"	W. L. D	5	7	5	7			16.67			"
6		Shepherd, J. E	"	Lawyer	7	5	7	5			5.83			"
7		Thomas, B. R	Chappell Hill	R. L. D	7	31	7	31			3.33			"
8		Powell, S. G	Matagorda	50 hds. sugar	15	10	12	31			600.00			5962
9		Dabety, F. W	New Ulm	R. L. D	25	26	20	26			14.58			7798
10		Bowling, Josiah	Halletsville	Conveyancer	31	8	25	8			3.33			"
11		Teirs, R. M	"	Lawyer	"	39	25	39			6.67			"
12		Throup, B. R	"	Physician	"	40	25	40			5.00			"
13		Davids, E. J	Corpus Christi	Lawyer	33	17	26	17			3.33			"
14		Lovenskeld, Chas	" "	Land broker	"	28	26	30			8.33			"
15		" "	" "	Lawyer	"	29	26	31			4.17			"
		Total									699.57			

FEBRUARY LIST, 1866.

16	.....	Hurlburd, W. C	Huston	Peddler	2	31	2	31		R. B. Kingsbury.	12.50			7798
17	.....	Brandt H	La Grange	R. L. D	7	1	7	1			3.33			"
18	.....	Mars, R	"	Gift entp'r	9	28	7	28			12.50			"
19	.....	Skinner, K. W	Wharton Co	Swine	15	19	15	19			3.80			"
20	.....	" "	"	Sheep	"	20	15	20			.15			"
21	.....	Chinn, R. H	Caney	Income	18	13	17	13			62.25			"
22	.....	" "	"	Physician	"	14	17	14			9.17			"
23	.....	Rugely, John	Hardeman	Income	17	14	18	14			58.85			"
24	.....	" "	"	Piano	"	15	18	15			2.00			"
25	.....	" "	"	Swine	"	16	18	16			8.00			"
26	.....	Tevis, R. M	Halletsville	Carriage	24	36	23	40			1.00			"
27	.....	" "	"	Gold watch	"	37	23	41			1.00			"
28	.....	" "	"	Income	"	38	23	41			2.00			"
[129]														
29	.....	Hutch, Green & Co	Ingleside	Income	27	14	25	14			50.50			"
30	.....	" " "	"	Carriage	27	15	25	15			1.00			"
		Total									332.05			

MARCH LIST, 1866.

31	2	Rogers, W. P	Chappell Hill	Apothecary	2	31	2	31		R. B. Kingsbury.	1.67			7798
32	....	Guss, A	Round Top	Ret. dealer	5	29	4	24			10.42			"
33	.....	George, Mrs. L. A	Wharton Co	Cattle	11	35	8	35			12.00			"
34	.....	" " "	" "	Twine	"	36	8	36			2.50			"
35	.....	" " "	" "	Carriage	"	37	8	37			1.00			"
36	.....	" " "	" "	Watch	"	38	8	38			3.00			"
37	.....	" " "	" "	Piano	"	39	8	39			4.00			"
38	.....	" " "	" "	Carriage	"	40	8	40			2.00			"
39	.....	Heyer & Upton	Osso	Ret. dealer	5	34	4	29			2.50			"
40	....	Hudgins, H	Wharton Co	Carriage	12	2	9	2			2.00			"
41	.....	" "	" "	Watch	"	3	9	3			2.00			"
42	.....	" "	" "	Twine	"	4	9	4			1.30			"
43	.....	" "	" "	Manufacturer	"	5	9	5			9.17			"
44	....	Burkhardt, Geo	Matagorda	Carriage	13	1	10	1			4.00			"
45	.....	" "	"	Watch	"	2	10	2			2.00			"
46	.....	Chinn, Dr. B. H	Caney	Slaughter	"	16	10	16			6.30			"
47	.....	" "	"	"	"	17	10	17			1.60			"
48	.....	Collins, S. W	Travis	Stallion	24	11	21	13			1.67			"
49	.....	" "	"	Carriage	24	13	21	15			1.00			"
50	.....	" "	"	Gold watch	"	14	21	16			1.00			"
51	.....	J. J. Josey	Hempstead	Peddler			22	29			1.67			"
52	.....	Ballah, R. W	Halletsville	Physician	31	4	26	4			9.17			"
53	.....	Rogers, W. S	Chappell Hill	"	2	33	2	32			1.67			"
		Total									83.64			

Schedule of claims for abatement of taxes alleged to be uncollectible in the first collection district of Texas, etc.—Continued.

APRIL LIST, 1866.

No. of claim.	No. of affidavit.	Name.	Address.	Article or occupation.	Page and line on list in office of Commissioner of Int. Rev.		Page and line on list in collector's office.		Date when list was received for collection.	Name of collector against whom these taxes stand charged.	Amount claimed.	Amount abated as collectible.	Amount rejected.	Remarks.
54	2	Hunt, J. S	Washington	Buggy	2	5	2	5			1.00			7798
55	.....	McKinney, B	"		3	12	3	12			1.00			"
56	.....	Seidel, E	Wine Grove	Ret. dealer	4	5	4	5			4.17			"
57	.....	Black, J. S	Lyons	Carriage	5	3	5	3			1.00			"
58	.....	Sattle, Z. W	Fayette Co	Buggy		21	7	18			1.00			"
[130]														
59	.....	Drew, J. N. C	Alleyton	Hotel	9	15	9	15			20.00			7798
60	.....	" "	"	Livery stable	9	16	9	16			6.67			"
61	.....	Fourd, R. L	Columbus	Lawyer	11	43	10	43			9.17			"
62	.....	Harcourt, J. T	"	"	12	13	11	13			9.17			"
63	.....	Baker, Wm. M	"	Carriage	14	24	13	24			1.00			"
64	.....	Harris, Ira A	"	Gold watch	15	37	14	37			2.00			"
65	.....	Kotzeburg, J	Frelsburg	Carriage	16	10	15	10			1.00			"
66	.....	Caruthers, W. S	Wharton Co	Dentist	19	3	17	3			1.67			"
67	.....	Grimes, Wm. B	Demings	Income	21	16	18	16			78.00			"
68	.....	"	"	Carriage	"	17	18	17			4.00			"
69	.....	"	"	2 watches	"	18	18	18			3.00			"
70	.....	"	"	Piano	"	20	18	19			2.00			"
71	.....	Kirkland, Wm. N	Caney	Income	"	31	18	31		R. B. Kingsbury.	120.00			"
72	.....	McGregor, G. C	Brenham	Physician	24	7	27	6			9.17			"
73	.....	Friar, Mrs. S	Yorktown	Hotel	25	19	28	18			22.92			"
74	.....	Gorman, W. S	Goliad	R. L. D	"	28	28	29			8.33			"
75	.....	Fant, E. M	"	Physician	25	21	28	22			.33			"
76	.....	Lockle, S. C	Clinton	Lawyer	26	2	29	2			9.17			"
77	.....	Lynch, J. S	"	R. L. D	"	6	"	6			29.92			"
78	.....	Wright, L. D	Yorktown	R. L. D	27	1	30	1			10.42			"
79	.....	Lincoln, James	"	Income	39	24 to 28	37	24 to 28			237.83			"
80	.....	Courn, C									.83			"
81	.....	Almanadis, H									1.67			"
82	.....	Licicigo, Antonio									100.00			"
		Total									543.59			

83	3	Ford, W. G	Washington	Ret. dealer			7	8			10.00			7798
84	.....	Hulburt, L. W	Brenham	Income			8	34			98.00			"
85	.....	Meredith, B. C., & Co.	Chappell Hill	Apothecary			9	32			10.00			"
86	.....	Form & Phillips	Brenham	Builders			12	19			25.00			"
87	....	Buck, Henry	Columbus	R. L. D			24	8			25.00			"
88	.....	Holmes, J. C	Alleyton	Broker			28	25			20.00			"
89	.....	McCarty, J. M	Osage	Carriage			29	21			1.00			"
[131]														
90	....	Stapleton, W	Orsage	Carriage										
91	.....	Walker, J. G	Oakland	Income			31	15				1.00		"
92	.....	" "	"	Carriage			33	23				9.87		"
93	.....	" "	"	Watch			11	24				1.00		"
94	.....	George, E., est. of	Wharton	Income			11	25				1.00		"
95	.....	" "	"	Watch & plate			37	6				145.85		"
96	.....	Hudgins, H	"	Manufacturer			37	7 8				3.00		"
97	.....	" "	"	Carriage & watch			37	21 22 23				10.00		"
98	.....	Burkhardt, Geo	Matagorda	Com. broker			43	10				2.00		"
99	.....	Fry, P	Caney	Physician			43	22				20.00		"
100	.....	Hawkins, J. B	"	Income			43	32				10.00		"
101	.....	Rugely, E. S	Hardeman	"			44	14				25.00		"
102	.....	" "	"	Carriage & piano			"	15 16				17.80		"
103	.....	" John	"	Income			"	17				4.00		"
104	.....	" "	"	Carriage & watch			"	18 19				32.94		"
105	.....	" Henry	"	Income			"	20				4.00		"
106	.....		"	Physician			"	21				4.37		"
107	.....	Broadway, D. W	Hemstead	"			49	12				10.00		"
108	....	Blake, Sam. K	"	Lawyer			"	14				10.00		"
109	.....	Elliot, Elias	Travis	Income			50	24				10.00		"
110	.....	Ermshorf, C	"	"			"	28				24.45		"
111	.....	Klein, Chas	Bellville	2d c. peddler			51	39				76.87		"
112	....	Tottenham, J. W	Sempronecus	Physician			53	25				25.00		"
113	..	Burns, Elbert	Goliad	Buggy			59	4				10.00		"
114	.....	" "	"	Income			"	5				1.00		"
115	....	Gorman, W. S	"	Income			"	26				145.00		"
116	.....	" "	"	Carriage			"	27				35.50		"
117	.....	McCarty, J. R	"	Income			60	1				2.00		"
118	.....	" "	"	Carriage			"	2				69.40		"
119	.....	Brown, G. W	Helena	R. L. D			61	13				2.00		"
120	.....	Calloway, W. B	"	Physician			61	35				10.42		"
[132]												4.17		"
121	.....	Calloway & Stowall	Helena	R. L. D			61	36				10.42		7798
122	.....	Dalcey, D. W	"	R. L. D			62	13				6 25		"
123	.....	Lawhorn, L. S	"	Lawyer			63	33				3.33		"

R. B. Kingsbury.

Schedule of claims for abatement of taxes alleged to be uncollectible in the first collection district of Texas, etc.—Continued.

ANNUAL LIST, 1866—Continued.

No. of claim.	No. of affidavit.	Name.	Address.	Article or occupation.	Page and line on list in office of Commissioner of Int. Rev.		Page and line on list in collector's office.		Date when list was received for collection.	Name of collector against whom these taxes stand charged.	Amount claimed.	Amount abated as collectible.	Amount rejected.	Remarks.
124	.....	Mayfield & Lawhorn	Helena	R. L. D	.....	.....	64	12	.....		.....	4.17	.....	7798
125	.....	Russell, C. C. A	"	Lawyer	.....	.....	"	13	.....		.....	3.33	.....	"
126	.....	Marshall, P. K	Halletsville	Income	.....	.....	69	32	.....		.....	8.25	.....	"
127	.....	" "	"	Carriage	.....	.....	"	33	.....		.....	2.00	.....	"
128	.....	Doughty, A. S	Refugio	R. L. D	.....	.....	80	13	.....		.....	2.08	.....	"
129	.....	" "	"	R. L. D	.....	.....	"	14	.....		.....	25.00	.....	"
130	.....	" J. M	"	Income	.....	.....	"	.....	.....		.....	34.85	.....	"
131	.....	.....	.....	.....	.....	.....	.....	.....	.....		.....	481.64	.....	
132	.....	.....	.....	.....	.....	.....	.....	.....	.....		.....	.....	.....	
133	.....	.....	.....	.....	.....	.....	.....	.....	.....		.....	.....	.....	

MAY LIST, 1866.

134	.....	.....	.....	.....	.....	.....	.....	.....	.....		.....	.....	.....	
135	4	Apig, Adolph	Richmond	Exhibition	7	3	1	3	.....		.....	10.00	.....	7798
136	.....	Barnes, W	Pittsville	Physician	"	7	.....	7	.....		.....	19.17	.....	"
137	.....	" "	1865	Income	"	8	.....	8	.....		.....	73.70	.....	"
138	.....	" "	.....	Hogs	"	9	.....	9	.....		.....	9.00	.....	"
139	.....	" "	.....	Carriage	"	10	.....	10	.....		.....	1.00	.....	"
140	.....	" "	.....	Watch	"	11	.....	11	.....		.....	2.00	.....	"
141	.....	" "	.....	Piano	"	12	.....	12	.....		.....	2.00	.....	"
142	.....	" "	1864	Income	"	13	.....	13	.....		.....	20.00	.....	"
143	.....	" "	.....	Carriage	"	14	.....	14	.....		.....	1.00	.....	"
144	.....	" "	.....	Watch	"	15	.....	15	.....		.....	2.00	.....	"
145	.....	" "	.....	Piano	"	16	.....	16	.....		.....	2.00	.....	"
146	.....	Benton, J. F	Richmond	R. L. D	"	20	.....	20	.....		.....	25.00	.....	"
147	.....	" "	"	Billiard table	"	21	.....	21	.....		.....	20.00	.....	"
148	.....	Carni, D. F	Pittsville	R. L. D	"	25	.....	25	.....		.....	37.50	.....	"
149	.....	Huff, John T	Arcola	R. L. D	8	27	2	27	.....		.....	25.00	.....	"
150	.....	Darst, Est	Fort Bend	Carriage	.....	.....	7	2	.....		.....	2.00	.....	"
151	.....	Jurney, E	Stafford's Point	Piano	.....	.....	9	34	.....		.....	2.00	.....	"
152	.....	" "	"	Carriage	.....	.....	"	35	.....		.....	1.00	.....	"
153	.....	" "	"	Piano	.....	.....	"	36	.....		.....	2.00	.....	"

R. B. Kingsbury.

[133]

154	.....	Kyle & Terry	Oakland	Plantation	10	20	.....	.....	.....	.....	1,08[illegible].00	.....	5958 compromised for $200.
155	.....	Hogan & Upton	Osa	R. L. D	13	27	.....	.....	.....	.....	16.00	.....	7798
156	.....	Robinson, J. W	Round Top	Carriage	15	6	.....	.....	.....	.....	2.00	.....	"
157	.....	Capugno, Joseph	Columbus	Cattle	17	22	.....	.....	.....	.....	16.40	.....	"
158	.....	" "	"	Sheep	"	23	.....	.....	.....	.....	2.50	.....	"
159	.....	" "	"	Swine	"	24	.....	.....	.....	.....	.10	.....	"
160	.....	Bruce, J. S	Eagle Lake	Physician	"	13	.....	.....	.....	.....	6.67	.....	"
161	.....	La Fale, V. D	Oakland	Watch	"	15	.....	.....	.....	.....	1.00	.....	"
162	.....	Fait, C. W		Carriage	18	38	.....	.....	.....	.....	1.00	.....	"
163	.....	" "		Watch	"	39	.....	.....	.....	.....	1.00	.....	"
164	.....	" "		Piano	"	40	.....	.....	.....	.....	4.00	.....	"
165	.....	Skinner, R. W		Income	19	19	.....	.....	.....	.....	5.12	.....	"
166	.....	" "		Carriage	"	20	.....	.....	.....	.....	1.00	.....	"
167	.....	" "		Piano	"	21	.....	.....	.....	.....	4.00	.....	"
168	.....	" "		"	"	22	.....	.....	.....	.....	4.00	.....	"
169	.....	Chinn, Dr. R. H		Income	20	7	.....	.....	.....	.....	22.08	.....	"
170	.....	"		Carriage	"	8	.....	.....	.....	.....	1.00	.....	"
171	.....	"		Piano	"	9	.....	.....	.....	.....	2.00	.....	"
172	.....	Kirkland, Wm. H		Income	"	17	.....	.....	.....	.....	220.00	.....	"
173	.....	"		"	"	18	.....	.....	.....	.....	13.85	.....	"
174	.....	"		Carriage	"	19	.....	.....	.....	.....	1.00	.....	"
175	.....	"		Watch	"	20	.....	.....	.....	.....	1.00	.....	"
176	.....	Thompson, Ada W		Income	"	29	.....	.....	.....	.....	143.31	.....	"
177	.....	" "		Watch	"	30	.....	.....	.....	.....	1.00	.....	"
178	.....	Jurnin, John		Swine	25	22	.....	.....	.....	.....	1.80	.....	"
											1,558.43		

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RECAPITULATION.

January list, 1866	$699.57
February list, 1866	232.05
March list, 1866	83.64
April list, 1866	694.44
Annual list, 1866	1,016.53
May list, 1866	1,809.80
	4,536.03

Collector's certificate.

UNITED STATES COLLECTOR'S OFFICE,
FIRST DISTRICT OF TEXAS,
Galveston, Texas, Oct. 30, 1883.

I hereby certify that I have carefully investigated the matter set forth in the several affidavits accompanying this schedule concerning the taxes enumerated therein, and I believe that the claims Nos. , , are in all respects just and true; and I further certify from personal examination that all the names and taxes enumerated within are found on the pages and lines as indicated in the respective lists now on file in my office; and I further certify that I believe no credit has heretofore been allowed in any form on account of any of the taxes within enumerated, and that none of them have been collected and reported in any monthly abstract; that the statements made within are true and correct, and that the credit for such of the taxes herein named as may be abated by the Commissioner of Internal Revenue should be given to Robt. B. Kingsbury, late coll'r of old 2d dist. of Texas.

W. H. SINCLAIR,
Collector First District, Texas.

(Indorsed:) Order No. . Schedule No. 2. Amount claimed, $1,061.63. Amount rejected, $. Amount allowed, $. Application for abatement of taxes alleged to be uncollectible and standing charged against Robert B. Kingsbury, late collector of second district of Texas, to the amount of ten hundred & sixty-one dollars and sixty-three cents ($1,061.63). Walter Evans, Commissioner of Internal Revenue. Examined and rejected by Ingram, Nov. 12, '83. The name appearing here should be that of the collector against whom the taxes on the schedule stand charged in the office of the Commissioner of Internal Revenue.

(48 a.)

[Revised May 21, 1879.]

Schedule claims for abatement of taxes alleged to be uncollectible in the 1st collection district of Texas, reported in the several specified lists for 1866, for which credit is requested, the claims being presented in accordance with the regulations of the Commissioner of Internal Revenue, by William H. Sinclair, collector.

[Schedule of claims will be returned to collectors unless the pages and lines are filled up in the collector's column.]

FEBRUARY LIST, 1866.

No. of claim.	No. of affidavit.	Name.	Address.	Article or occupation.	Page and line on list in office of Commissioner of Int. Rev.		Page and line on list in collector's office.		Date when list was received for collection.	Name of collector against whom these taxes stand charged.	Amount claimed.	Amount abated as uncollectible.	Amount rejected.	Remarks.
1	1	Grace, O	Hempstead	Cotton			20	27		R. B. Kingsbury.		$38.49		
												38.49		

MARCH LIST, 1866.

2	1	Folcolm, G	Chappell Hill	Cotton			1	33		R. B. Kingsbury.		434.88		
3	1	Shields, N	Indianola	Ret. dealer			19	35				8.33		
												443.21		

APRIL LIST, 1866.

4	1	Halebut, Franz	La Grange	Cotton			5	35				7.40		
5	1	Hawkins, Jas. R	Caney	Molasses			18	22				96.00		
6	1	Heitman, Mort	La Grange	Cotton			5	34				50.56		
7	1	Coleman, E. A	Texana	Ret. dealer			20	17				3.33		
8	1	Rough, E. & Co	Lavaca	Ret. dealer			23	26				9.17		
9	1	Spencer, N. N	"	Butcher			24	4				7.50		
												173.96		

Schedule claims for abatement of taxes alleged to be uncollectible in the 1st *collection district of Texas, etc.*—Continued.

MAY LIST, 1866.

No. of claim.	No. of affidavit.	Name.	Address.	Article or occupation.	Page and line on list in office of Commissioner of Int. Rev.		Page and line on list in collector's office.		Date when list was received for collection.	Name of collector against whom these taxes stand charged.	Amount claimed.	Amount abated as uncollectible.	Amount rejected.	Remarks.
10	1	Darley, M. E	Winchester	Cotton			13	16				99.00		
11	1	Farley, R. M	Lavaca	"			22	11				18.00		
12	1	Dullenson, O. B	"	"			22	12				25.70		
13	1	Dale & Ashworth	Indianola	"			22	7				158.00		
14	1	Rhodes, David	"	"			25	19				85.36		
												386.06		

ANNUAL LIST, 1866.

15	1	Dillon, P. & B	Brenham	R. L. D			6	27				10.00		
16	1	Ford, W. G	Washington	R. L. D			7	11				10.00		
												20.00		

RECAPITULATION.

February list, 1866	$38.40
March " "	443.21
April " "	173.96
May " "	386.06
Annual " "	20.00
	1,061.63

Collector's certificate.

UNITED STATES COMPTROLLER'S OFFICE,
FIRST DISTRICT OF TEXAS,
Galveston, Texas, Oct. 30, 1883.

I hereby certify that I have carefully investigated the matters set forth in the several affidavits accompanying this schedule, concerning the taxes enumerated (therein), and I believe that the claims Nos. , , in all respects just and true, and I further certify, from personal examination that all the names and taxes enumerated within are found on the pages and lines as indicated in the respective lists now on file in my office, and I further certify, that I believe no credit has heretofore been allowed in any form on account of any of the taxes within enumerated and that none of them have been collected and reported in any monthly abstract; that the statements made within are true and correct; and that the credit for such of the taxes herein named as may be abated by the Commissioner of Internal Revenue should be given to Robert B. Kingsbury, late coll'r of old 2nd dist. of Texas.

W. H. SINCLAIR,
Collector First Dist. Texas.

(Indorsed:)—Order No. Schedule No. 1, amount claimed 4,536.03, amount rejected amount allowed application for abatement of taxes.

Alleged to be uncollectible, and standing charged against Robert B. Kingsbury, late collector of second district of Texas. Rejected amount of four thousand, and five hundred thirty-six dollars and three cents, ($4,536.03.) Walter Evans, Commissioner Internal Revenue. Examined and rejected by Ingram, Nov. 12, '83. The name appearing here should be that of the collector against whom the taxes on the schedule stand charged in the office of the Commissioner of Internal Revenue.

136 (FORM No. 53.)

[United States internal revenue; revised May 14, 1874.]

Schedule of taxes reported on the several specified lists for 1866, *returned by R. B. Kingsbury, late deputy collector of the division of the 2nd district of Texas, as uncollectible, to Commissioner of Int. Rev.*

No. of claim.*	Names of parties assessed.	Article or occupation.	Amount of claim.	Date of first demand.	Date from which the tax was found to be uncollectible.	Cause of inability to collect.
	February list, 1866:					
175	Grace, O	Cotton	38.40			
	March list, 1866:					
176	Folcoler, G	Cotton	434.88			
177	Shields, N	Ret. dealer	8.33			
			443.21			
	April list, 1866:					
178	Halebut, Franz	Cotton	7.40			
179	Hawkins, Jas. R	Molasses	96.00			
180	Heitman, Jno. A	Cotton	50.56			

* No. must be filled in by collectors to correspond with the No. of same claim on Form 48.

Schedule of taxes reported on the several lists for 1866, *etc.*—Continued.

No. of claim.	Names of parties assessed.	Article or occupation.	Amount of claim.	Date of first demand.	Date from which the tax was found to be uncollectible.	Cause of inability to collect.
	April list, 1866:—Continued.					
181	Coleman, E. A	Ret. dealer	3.33			
182	Rough, E. & Co	do	9.17			
183	Spencer, U. N	Butcher	7.50			
			173.96			
	May list, 1866:					
184	Darley, M. C	Cotton	99.00			
185	Farley, R. M	do	18.00			
186	Dullinson, O. B	do	25.70			
187	Dale & Ashworth	do	158.00			
188	Rhodes, David		85.36			
			386.06			
	Annual list, 1866:					
189	Dillon, P. & B	R. L. D	10.00			
190	Ford, W. G	do	10.00			
			20.00			

☞ There should be but one form No. 53 from a Division in a month, and that should contain all the lists upon which taxes are claimed as uncollectible.

BROWNSVILLE, TEXAS,
Oct'r 13th, 1883.

I, Robert B. Kingsbury, late collector of internal revenue in collection dist. No. 2, in the State of Texas, hereby certify that the within taxes or duties charged to and assessed against the several persons named in the list within specified, amounting in the aggregate to one thousand & sixty-one dollars & sixty-three cents ($1,061.63), have not been collected during my administration so far as I know and believe, and I claim that I am not chargeable with the amount of same, for the reason that I was not allowed and credited with salary and commissions until I had gone out of office.

ROBT. KINGSBURY,
Late Coll'r.

Sworn and subscribed before me this 13th day of Oct'r, A. D. 1883.
M. B. KINGSBURY,
Notary Pub., Cameron Co., Texas.

I, , deputy collector of internal revenue for division No. , in collection district No. , in the State of , hereby certify that the within taxes or duties charged to and assessed against the several persons named in the lists within specified for 187 , amounting in the aggregate to $\frac{}{100}$ dollars, have not been collected; and, that I demanded payment of said taxes and duties of the within-mentioned persons on the several dates affixed to their names; and that I have been unable to collect said taxes and duties, or any portion thereof, for the reasons set forth in my schedule herein enclosed. And I further certify, that the reasons for the failure to collect said taxes and duties existed prior to the several dates set forth in the proper column, and still exist as stated within; that

I made diligent efforts to collect the said taxes and duties; and that the failure to collect the same did not arise out of or through any omission or neglect of duty on my part.

, *Deputy Collector.*

Sworn and subscribed to this day of , 187 , before me, .

(Indorsed:) (Form 53. U. S. internal revenue voucher No. 6, $1,061.63. Claims No. one hundred and seventy-five to one-hundred and ninety, inclusive. Uncollectible taxes. Certified return of R. B. Kingsbury, late of the divison, 2 district of Texas, of the taxes found to be uncollectible on the 1866 lists. Examined and , 187 , by . Rejected, Ingram, Nov. 12, '83.

137 (FORM No. 53.)

[United States internal revenue; revised May 14, 1874.]

Schedule of taxes reported on the several specified lists for 1866, *returned by R. B. Kingsbury, late collector of the division of the* 2nd *district of Texas, as uncollectible, to Commissioner of Int. Rev.*

No. of claim.*	Names of parties assessed.	Article or occupation.	Amount of claim.	Date of first demand.	Date from which the tax was found to be uncollectible.	Cause of inability to collect.
	January list, 1866:					
1	Denman & Co	Auctioneer	4.17			
2	Field, J. C	R. L. D	16.67			
3	Foxpardy, F. A	" " "	3.33			
4	Green, W. H	" " "	4.16			
5	Hurlbert, W. C	W. L. D	16.67			
6	Shepherd, J. E	Lawyer	5.83			
7	Thomas, B. R	R. L. D	3.33			
8	Powell, S. G	50 hhds. sugar	600.00			
9	Dabtz, F. W	R. L. D	14.58			
10	Dowling, Josiah	Conveyancer	3.33			
11	Teris, R. M	Lawyer	6.67			
12	Throup, B. R	Physician	5.00			
13	Davids, E. J	Lawyer	3.33			
14	Lovenskeld, Chas	Land broker	8.33			
15	do. do.	Lawyer	4.17			
			699.57			
	February list, 1866:					
16	Hurlburt, W. C	Pedler	12.50			
17	Brandt, H	R. L. D	3.33			
18	Mars, R	Gift enterprise	12.50			
19	Skinner, K. W	Swine	3.80			
20	do. do.	Sheep	.15			
21	Chinn, R. H	Income	66.25			
22	do. do.	Physician	9.47			
23	Rugeby, John	Income	58.85			
24	do. do.	Piano	2.00			
25	do. do.	Swine	8.00			
26	Teris, R. M	Carriage	1.00			
27	do. do.	Gold watch	1.00			
28	do. do.	Piano	50.50			
29	Hutch, Green & Co	Income	1.00			
30	do. do. do.	Carriage				
			232.05			

* No. must be filled in by collectors to correspond with the No. of same claim on Form 48.

☞ There should be but one Form No. 53 from a division in a month, and that should contain all the lists upon which taxes are claimed as uncollectible.

BROWNSVILLE, TEXAS, *Oct'r 13th*, 1883.

I, Robert B. Kingsbury, late collector of internal revenue in collection dist. No. 2, in the State of Texas, hereby certify that the within taxes or duties charged to and assessed against the several persons named in the list within specified, amounting in the aggregate to nine hundred and thirty-one dollars and sixty-two cents ($931.62) have not been collected during my administration so far as I know and believe, and I claim that I am not chargeable with the amount of same for the reason that I was not allowed and credited with salary and commissions until I had gone out of office.

ROBT. B. KINGSBURY,
Late Coll'r.

Sworn to and subscribed before me the 13th day of Oct'r, A. D. 1883.

M. B. KINGSBURY,
Not'y Pub. Cameron Co., Texas.

I, , deputy collector of internal revenue for division No. , in collection district No. , in the State of , hereby certify that the within taxes or duties charged to and assessed against the several persons named in the lists within specified for 187 , amounting in the aggregate to $\frac{}{100}$ dollars, have not been collected; and that I demanded payment of said taxes and duties of the within-mentioned persons on the several dates affixed to their names; and that I have been unable to collect said taxes and duties, or any portion thereof, for the reasons set forth in my schedule herein enclosed. And I further certify, that the reasons for the failure to collect said taxes and duties existed prior to the several dates set forth in the proper column, and still exist as stated within; that I made diligent efforts to collect the said taxes and duties; and that the failure to collect the same did not arise out of or through any omission or neglect of duty on my part.

Deputy Collector.

Sworn and subscribed to this day of , 187 , before me

(Form 53.)

(Indorsed:) U. S. internal-revenue voucher No. 1. $931.62. Claims No. one to thirty inclusive. Uncollectible taxes. Certified return of R. B. Kingsbury, late collector of the division, 2 district of Texas, of the taxes found to be uncollectible on the 1,866 lists.

Examined and , 187 , by .

138 (FORM NO. 53.)

[United States internal revenue, revised May 14, 1874.]

Schedule of taxes reported on the several specified lists for 1866, *returned by R. B. Kingsbury, late collector of the division of the* 2nd *district of Texas, as uncollectible, to Commissioner of Int. Rev.*

* No. of claim.	Names of parties assessed.	Article or occupation.	Amount of claim.	Date of first demand.	Date from which the tax was found to be uncollectible.	Cause of inability to collect.
	March list, 1866:					
31	Rodgers, W. S	Apothecary	1.67			
32	do. do.	Physician	1.67			
33	Guss, A	R. L. D	10.42			
34	George, Mrs. L. A	Cattle	12.00			
35	do. do	Swine	2.50			
36	do. do	Carriage	1.00			
37	do. do	Watch	3.00			
38	do. do	Piano	4.00			
39	do. do	Carriage	2.00			
40	Heyer & Upton	R. L. D	2.50			
41	Hudgins, H	Carriage	2.00			
42	do. do	Watch	2.00			
43	do. do	Swine	1.30			
44	do. do	Manufacturer	9.17			
45	Burkhart, Geo	Carriage	4.00			
46	do. do	Watch	2.00			
47	Clinn, Dr. B. H	Slaughter	6.30			
48	do. do	do	1.60			
49	Collins, S. W	Stallion	1.67			
50	do. do	Carriage	1.00			
51	do. do	Gold watch	1.00			
52	Josey, J. J	Peddler	1.67			
53	Ballah, R. W	Physician	9.17			
			83.64			
	April list, 1866:					
54	Hurt, J. S	Buggy	1.00			
55	McKinney, B	do	1.00			
56	Seidel, E	R. L. D	4.17			
57	Block, J. S	Carriage	1.00			
58	Sattle, Z. W	Buggy	1.00			
59	Drew, J. H. C	Hotel keeper	20.00			
60	do. do	Livery stable	6.67			
61	Fourd, R. L	Att'y at law	9.17			
62	Harcourt, J. F	do	9.17			
63	Baker, Wm. M	Carriage	1.00			
64	Harris, Ira A	Gold watch	2.00			
65	Kotzeburg, J	Carriage	1.00			
66	Carruthers, U. S	Dentist	6.67			
67	Grimes, Wm. B	Income	78.00			
68	do. do	Carriage	4.00			
69	do. do	2 watches	3.00			
70	do. do	Piano	2.00			
			150.85			

* No. must be filled in by collectors to correspond with the No. of same claim on Form 48.

☞ There should be but one Form No. 53 from a division in a month, and that should contain all the lists upon which taxes are claimed as uncollectible.

BROWNSVILLE, TEXAS,
Oct'r 13th, 1883.

I, Robert B. Kingsbury, late collector of internal revenue in collection dist. No. 2, in the State of Texas, hereby certify that the within taxes or duties charged to and assessed against the several persons named in the list within specified, amounting in the aggregate to two hundred and thirty-four dollars and forty-nine cents ($234.49), have not been collected during my administration, so far as I know and believe, and I claim that I am not

chargeable with the amount of same, for the reason that I was not allowed and credited with salary and commissions until I had gone out of office.

ROBERT B. KINGSBURY,
Late Coll'r.

Sworn to and subscribed before me this 13th day of Oct., A. D. 1883.

M. B. KINGSBURY,
Notary Pub., Cameron Co., Texas.

I, , deputy collector of internal revenue for division No. , in collection district No. , in the State of , hereby certify that the within taxes or duties charged to and assessed against the several persons named in the lists within specified for 187 , amounting in the aggregate to $\frac{}{100}$ dollars, have not been collected; and that I demanded payment of said taxes and duties of the within-mentioned persons on the several dates affixed to their names; and that I have been unable to collect said taxes and duties, or any portion thereof, for the reasons set forth in my schedule herein inclosed. And I further certify that the reasons for the failure to collect said taxes and duties existed prior to the several dates set forth in the proper column, and still exist as stated within; that I made diligent efforts to collect the said taxes and duties; and that the failure to collect the same did not arise out of or through any omission or neglect of duty on my part.

, *Deputy Collector.*

Sworn and subscribed to this day of , 187 , before me,

(Indorsed:) (Form 53.) U. S. Internal Revenue. Voucher No. 2. $234.49. Claims No. thirty-one to seventy, inclusive. Uncollectible, taxes. Certified return of R. B. Kingsbury, late deputy collector of the division, 2 district of Texas, of the taxes found to be uncollectible on the 1866 lists. Examined and , 187 , by .

139 (FORM NO. 53.)

[United States internal revenue, revised May 14, 1874.]

Schedule of taxes reported on the several specified lists for 1866, *returned by R. B. Kingsbury, late collector of the division of the 2nd district of Texas, as uncollectible, to Commissioner of Int. Rev.*

No. of claim.	Names of parties assessed.	Article or occupation.	Amount of claim.	Date of first demand.	Date from which the tax was found to be uncollectible.	Cause of inability to collect.
	April list, 1866—Continued. Bro't up.					
71	Kirkland, Wm. H	Income	120.00			
72	McGregor, G. C	Physician	9.17			
73	Friar, Mrs. S	Hotel keeper	22.92			
74	Gorman, W. S	R. L. D	8.33			
75	Fant, E. M	Physician	.33			
76	Lockle, S. C	Lawyer	9.17			
77	Lynch, J. S	R. L. D	22.92			
78	Wright, L. R	do	10.42			

* No. must be filled in by the collectors to correspond with the No. of same claim on Form 48.

Schedule of taxes reported on the several specified lists for 1866, *etc.*—Continued.

No. of claim.	Name of parties assessed.	Article or occupation.	Amount of claim.	Date of first demand.	Date from which the tax was found to be uncollectible.	Cause of inability to collect.
	April list, 1866—Continued.					
79	Lincoln, James	Income, &c	287.83			
80	Canen, C		.83			
81	Almanadis, Huera		1.67			
82	Liciago, Antonio		100.00			
			543.59			
	Annual list, 1866:					
83	Ford, W. G	Ret. dealer	10.00			
84	Hurlburt, L. W	Income	98.60			
85	Meredith, B. C. & Co	Apothecary	10.00			
86	Form & Phillips	Builders	25.00			
87	Buck, Henry	R. L. D.	25.00			
88	Holmes, J. C	Broker	20.00			
89	McCarty, J. M	Carriage	1.00			
90	Stapleton, William	do.	1.00			
91	Walker, J. G	Income	9.87			
92	do. do	Carriage	1.00			
93	do. do	Watch	1.00			
94	George, E., est. of	Income	145.85			
95	do. do	Watch & plate	3.00			
96	Hudgins, A	Manufacturer	10.00			
97	do. do	Carriage & watch	2.00			
98	Burkhart, Geo	Corn broker	20.00			
99	Fry, F	Physician	10.00			
100	Hawkins, Jas. B	Income	25.00			
101	Rugeby, E. S	Income	17.81			
102	do. do	Carriage & piano	4.00			
103	Rugeby, John	Income	32.94			
104	do. do	Carriage & watch	4.00			
105	Rugeby, Henry	Income	4.37			
106	do. do	Physician	10.00			
107	Broadway, D. W	do	10.00			
108	Blake, Sam. K	Lawyer	10.00			
109	Elliott, Alias	Income	24.45			
			535.89			

☞ There should be but one form No. 53 from a Division in a month, and that should contain all the lists upon which taxes are claimed as uncollectible.

BROWNSVILLE, TEXAS,
Oct'r 13th, 1883.

I, Robert B. Kingsbury, late collector of internal revenue in collection dist. No. 2, in the State of Texas, hereby certify that the within taxes or duties charged to and assessed against the several persons named in the list within specified, amounting in the aggregate to one thousand and seventy-nine dollars and forty-eight cents ($1,079.48), have not been collected during my administration, so far as I know & believe, and I claim that I am not chargeable with the amount of same, for the reason that I was not allowed and credited with salary and commissions until I had gone out of office.

ROBT. B. KINGSBURY,
Late Coll'r.

Sworn to and subscribed before me this 13th day of October, A. D. 1883.

M. B. KINGSBURY,
Notary Pub., Cameron Co., Texas.

I, , deputy collector of internal revenue for division No. , in collection district No. , in the State of , hereby certify that the within taxes or duties charged to and assessed against the several persons named in the lists within specified for 187 , amounting in the aggregate to $\frac{}{100}$ dollars, have not been collected; and that I demanded payment of said taxes and duties of the within-mentioned persons on the several dates affixed to their names; and that I have been unable to collect said taxes and duties, or any portion thereof, for the reasons set forth in my schedule herein inclosed. And I further certify that the reasons for the failure to collect said taxes and duties existed prior to the several dates set forth in the proper column, and still exist as stated within; that I made diligent efforts to collect the said taxes and duties; and that the failure to collect the same did not arise out of or through any omission or neglect of duty on my part.

, *Deputy Collector.*

Sworn and subscribed to this day of , 187 , before me, .

(Indorsed:) (Form 53.) U. S. internal revenue. Voucher No. 3, $1,079.48. Claims No. seventy-one to one hundred and nine, inclusive. Uncollectible taxes. Certified return of R. B. Kingsbury, late collector of the division, 2 district of Texas, of the taxes found to be uncollectible on the 1866 lists. Examined and , 187 , by .

140 (Form No. 53.)

[United States internal revenue, revised May 14, 1874.]

Schedule of taxes reported on the several specified lists for 1866, *returned by R. B. Kingsbury, late collector of the division of the* 2*ond district of Texas, as uncollectible, to Commissioner of Int. Rev.*

* No. of claim.	Names of parties assessed.	Article or occupation.	Amount of claim.	Date of first demand.	Date from which the tax was found to be uncollectible.	Cause of inability to collect.
	May last, 1866—continued. Bro't up.					
147	Jarney, E	Piano	2.00			
148	do. do	Carriage	1.00			
149	do. do	Piano	2.00			
150	Kyle & Terry	Plantation	1,087.60			
151	Hogan & Upton	R. L. D	10.02			
152	Robinson, J. W	Carriage	2.00			
153	Capugno, Joseph	Cattle	16.40			
154	do. do	Sheep	2.50			
155	do. do	Swine	10			
156	Bruce, J. S	Physician	6.67			
157	La Fale, V. D	Watch	1.00			
158	Fait, C. W	Carriage	1.00			
159	do. do	Watch	1.00			
160	do. do	Piano	4.00			
161	Skinner, R. W	Income	5.12			
162	do. do	Carriage	1.00			
163	do. do	Piano	4.00			

* Number must be filled in by the collectors to correspond with the No. of same claim on Form 48.

Schedule of taxes reported on the several specified lists for 186 , *etc.*—Continued.

No. of claim.	Names of parties assessed.	Article or occupation.	Amount of claim.	Date of first demand.	Date from which the tax was found to be uncollectible.	Cause of inibility to collect.
	May last, 1866—continued.					
164	do. do	do	4.00			
165	Chinn, Dr. R. H	Income	22.08			
166	do. do	Carriage	1.00			
167	do. do	Piano	2.00			
168	Kirkland, Wm. H	Income	220.00			
169	do. do	do	13 85			
170	do. do	Carriage	1.00			
171	do. do	Watch	1.00			
172	Thompson, Asa W	Income	143.31			
173	do. do	Watch	1.60			
174	Jinnin, John	Swine	1.80			
			1,558.43			

☞ There should be but one Form No. 53 from a division in a month, and that should contain all the lists upon which taxes are claimed as uncollectible.

BROWNSVILLE, TEXAS, *Oct'r 13th*, 1883.

I, Robert B. Kingsbury, late collector of internal revenue in collection dist. No. 2, in the State of Texas, hereby certify that the within taxes or duties charged to and assessed against the several persons named in the list within specified, amounting in the aggregate to one thousand five hundred & fifty-eight dollars and forty-three cents ($1,558.43), have not been collected during my administration so far as I know and believe, and I claim that I am not chargeable, for the reason that I was not allowed & credited with salary & commissions until I had gone out of office.

ROBERT B. KINGSBURY,
Late Coll'r.

Sworn to and subscribed before me this 13th day of Oct'r, A. D. 1883.

M. B. KINGSBURY,
Notary Pub. Cameron Co., Texas.

I, , deputy collector of internal revenue for division No. , in collection district No. , in the State of , hereby certify that the within taxes or duties charged to and assessed against the several persons named in the lists within specified for 187 , amounting in the aggregate to $\frac{}{100}$ dollars, have not been collected; and that I demanded payment of said taxes and duties of the within-mentioned persons on the several dates affixed to their names; and that I have been unable to collect said taxes and duties, or any portion thereof, for the reasons set forth in my schedule herein inclosed. And I further certify that the reasons for the failure to collect said taxes and duties existed prior to the several dates set forth in the proper column, and still exist as stated within; that I made diligent efforts to collect the said taxes and duties; and that the failure to collect the same did not arise out of or through any omission or neglect of duty on my part.

, *Deputy Collector.*

Sworn and subscribed to this day of , 187 , before me,

(Indorsed:) (Form 53) U. S. internal revenue. Voucher No. 5. $1,558,43. Claims No. one hundred and forty-seven to one hundred and seventy-four inclusive. Uncollectible taxes. Certified return of R. B. Kingsbury, late deputy collector of the division, 2 district of Texas, of the taxes found to be uncollectible on the 1866 lists. Examined and rejected Nov. 12, 1883, by Ingram.

141 (FORM NO. 53.)

[United States internal revenue, revised May 14, 1874.]

Schedule of taxes reported on the several specified lists for 1866, *returned by R. B. Kingsbury, late collector of the division of the 2nd district of Texas, as uncollectible, to Commissioner Int. Rev., collector of said district.*

* No. of claim.	Names of parties assessed.	Article or occupation.	Amount of claim.	Date of first demand.	Date from which the tax was found to be uncollectible.	Cause of inability to collect.
	Annual list, 1886—continu'd. Bro't up.					
110	Ermshorf, C	Income	76.87			
111	Klein, Chas	2-class pedler	25.00			
112	Tottenham, J. W	Physician	10.00			
113	Burns, Elbert	Buggy				
114	do. do	Income	145.60			
115	Gorman, W. S	Income	35.50			
116	do. do	Carriage	2.00			
117	McCarty, J. R	Income	69.40			
118	do. do	Carriage	2.00			
119	Brown, G. W	R. L. D	10.42			
120	Calloway, W. B	Physician	4.17			
121	Calloway & Stowall	R. L. D	10.42			
122	Dailey, D. W	do	6.25			
123	Lawhorn, L. S	Lawyer	3.33			
124	Mayfield & Lawhorn	R. L. D	4.17			
125	Russell, C. A	Lawyer	3.33			
126	Marshall, P. K	Income	8.25			
127	do. do	Carriage	2.00			
128	Daughty, A. L	R. L. D	2.08			
129	do. do	do	25.00			
130	Daughty, J. M	Income	34.85			
			480.64			
	May list, 1866:					
131	Apig, Adolph	Exhibition	10.00			
132	Barnes, W	Physician	19.17			
133	do. do., 1865	Income	73.70			
134	do. do	Hogs	9.00			
135	do. do	Carriage	1.00			
136	do. do	Watch	2.00			
137	do. do	Piano	2.00			
138	do. do., 1864	Income	20.00			
139	do. do	Carriage	1.00			
140	do. do	Watch	2.00			
141	do. do	Piano	2.00			
142	Benton, J. F	R. L. D	25.00			
143	do. do	Billiard table	20.00			
144	Carin, D. Y	R. L. D	37.50			
145	Huff, Jno. V	do	25.00			
146	Dorst, E. A	Carriage	2.00			
			251.37			

* Number must be filled in by the collectors to correspond with the No. of same claim on Form 48.

☞ There should be but one Form No. 53 from a division in a month, and that should contain all the lists upon which taxes are claimed as uncollectible.

BROWNSVILLE, TEXAS, *Oct'r 13th*, 1883.

I, Robert B. Kingsbury, late collector of internal revenue in collection dist. No. 2 in the State of Texas, hereby certify that the within taxes or duties charged to and assessed against the several persons named in the

list within specified, amounting in the aggregate to seven hundred and thirty-two dollars and one cent, have not been collected during my administration so far as I know and believe, and I claim that I am not chargeable with the amount of same for the reason that I was not allowed and credited with salary and commissions until I had gone out of office.

ROBT. B. KINGSBURY,
Late Coll'r.

Sworn to and subscribed before me on this 13th day of Oct'r, 1883.

M. B. KINGSBURY,
Notary Pub. Cam. Co., Texas.

I, , deputy collector of internal revenue for division No. , in collection district No. , in the State of , hereby certify that the within taxes or duties charged to and assessed against the several persons named in the lists within specified for 187 , amounting in the aggregate to dollars, have not been collected; and that I demanded payment of said taxes and duties of the within-mentioned persons on the several dates affixed to their names; and that I have been unable to collect said taxes and duties, or any portion thereof, for the reasons set forth in my schedule herein inclosed. And I further certify that the reasons for the failure to collect said taxes and duties existed prior to the several dates set forth in the proper column, and still exist as stated within; that I made diligent efforts to collect the said taxes and duties; and that the failure to collect the same did not arise out of or through any omission or neglect of duty on my part.

Deputy Collector.

Sworn and subscribed to this day of , 187 , before me.

(Indorsed:) (Form 53.) U. S. internal revenue. Voucher No. 4. $732.01. Claims No. one hundred and ten to one hundred and forty-six, inclusive, uncollectible taxes. Certified return of R. B. Kingsbury, late collector of the division, 2 district of Texas, of the taxes found to be uncollectible on the 1866 lists. Examined and , 187 , by .

143 Summary statement of the revenue account of Robert B. Kingsbury, late collector of internal revenue for the 2d district of Texas, for the period from July 17th, 1865, to October 23d, 1866, under his official bond, dated July 8th, 1865.

DR.

1. To amount of taxes receipted for per Forms 23½, viz:		
To amount of the January list, 1866		$77,732.11
" " " the February " "		28,968.98
March " "		31,975.13
April " "		21,800.14
May " "		47,451.56
Annual list, 1866.....		83,592.31
Total lists receipted for		$291,520.23

DR.

2. To amount of beer stamps furnished the collector, per Form 103, for October, 1866	$500.00
3. To am't of advance collections on lists of successor R. H. Lane	145,232.22
4. To am't of taxes collected, not receipted for on any list	18,357.30
5. To am't of taxes on bonded goods collected	494.40
6. To am't of taxes on Form 59, collected	2.48
7. To am't of taxes, excess in accounting for beer stamps	3.19
	456,109.82

142 CR.

1. By am't of cash deposited as per covering warrants, as follows, viz:		
By warrant No. 163, 1st q'r, 1866	$25,000.00	
224, 2d	12,490.25	
749	17,060.00	
204, 3d	10,000.38	
203	13,700.75	
517	11,582.80	
747	4,750.00	
460, 4th q'r	35,406.00	
905	11,441.00	
245, 1st q'r, 1867	1,573.20	
890	79,100.37	
287, 2d q'r	5,388.00	
312	21,079.74	
384	923.27	
		$249,495.76
2. By am't of cash deposited to credit of successor		8,554.26
3. By am't of taxes abated by the Commissioner of Internal Revenue		154,547.03
4. By am't collected by successors on lists receipted for by Collector Kingsbury, viz:		
R. H. Lane	25,390.67	
L. G. Brown	83.25	
W. A. Saylor	3.00	
		25,476.92
Milton Stapp, 1st dist., Tenn	3,426.32	
W. H. Sinclair, " " "	191.39	
		3,617.71
5. By am't of beer stamp returned		60.00
6. " " " " " transferred to M. Stapp		157.50
7. " " " " " transferred to R. H. Lane		10.00
8. " " " discount on sales of beer stamps		20.44
Balance due the United States		14,170.20
		456,109.82

144 Cause pending in U. S court at Brownsville, circuit court docket.

THE UNITED STATES
vs.
ROBERT BATES KINGSBURY ET ALS. } No. 230.

Whereas there is but limited time to try important cases at this the Brownsville branch of the United States circuit court for the western district of Texas; and whereas the circuit judge of the 5th circuit, western district of Texas, has never been able to attend the Brownsville branch of the court, therefore, to facilitate the trial of the above cause, it is hereby agreed that the venue of this case be changed from Brownsville, Texas, to Austin, Texas, and that it be called for trial at the ensuing August term of said court at Austin.

A. J. EVANS,
U. S. Att'y West Dist. Texas.
WELLS & HICKS,
Atty's for Deft's.

BROWNSVILLE, *July 11th*, 1885.

(Endorsed in the following words, to wit:) No. 330, the United States vs. Robert Bates Kingsbury et als. Agreement of counsel to change venue to Austin, Texas. Filed July 11th, '85. Chas. F. Tilghman, clerk. Filed this 31 day of July, A. D. 1885. Sam Hopkins, clerk circuit court.

144½ *A transcript of all original orders, entries, and judgments, in cause No. 230, entitled The United States vs. Robert Bates Kingsbury "et al."*

145 MONDAY, *May 9th*, 1881.

THE UNITED STATES
vs.
ROBERT BATES KINGSBURY ET AL. } No. 230.

It appearing to the court that W. J. Phillips, one of the defendants herein, is marshal of the eastern district of Texas, resident of Galveston, in said district, it is ordered that the sheriff of Galveston County be, and he is hereby, appointed to serve the citation in this case upon the said W. J. Phillips, and the clerk is ordered to direct said citation to said sheriff.

It is further ordered that alias process issue to W. J. Phillips, Samuel F. Barr, and Simon Messina, and the marshal has leave to amend his returns on citations to defendants Kingsbury and Lane.

WEDNESDAY, *April 27th*, 1882.

THE UNITED STATES
vs.
ROBERT BATES KINGSBURY ET AL. } No. 230.

This cause coming on to be heard upon the demurrer of the defendants to plaintiff's petition, and the same having been fully argued and considered by the court, is now sustained in so far as the said demurrer relates to the failure of the plaintiff to file a specific statement of account against the said defendants.

146 It is further ordered that plaintiff have leave to amend.

SATURDAY, *May 6th*, 1882.

THE UNITED STATES
vs.
ROBERT BATES KINGSBURY, and others. } No. 230.

This cause coming on to be heard, came the district attorney and moved the court to dismiss this cause as to Samuel L. Barr, without prejudice, he being a non-resident of Texas, and Charles Worthington, not served, and it is so ordered accordingly.

And Wm. Joseph Phillips, Robert Bates Kingsbury, Richard H. Lane, and Simon Mussina, appearing by their counsel, James B. Wells, both parties announced ready for trial; and thereupon came a jury of good and lawful men of the western district of Texas, to wit: Wm. Scanlan, and eleven others, duly elected, empanneled, and sworn, who, having heard the evidence, argument of counsel, and charge of the court, retired and returned into open court the following verdict, to wit: "We, the jury, find for defendants." (Signed) Wm. Scanlan, foreman."

Wherefore it is considered by the court that the United States take nothing herein, and that the defendants go hence discharged.

147 MONDAY, *May 8th*, 1882.

THE UNITED STATES
vs.
ROBERT BATES KINGSBURY. } No. 230.

This cause coming on again to be heard on a motion for new trial, and the same having been fully considered, it is ordered that the judgment heretofore, to wit, on the 6th day of May, 1882, entered herein, be and the same is hereby set aside, and this cause continued.

MONDAY, *April 30th*, 1883.

THE UNITED STATES
vs.
ROB'T B. KINGSBURY. } No. 230.

Ordered that both parties have leave to amend, and cause continued.

TUESDAY, *April 22nd*, 1884.

THE UNITED STATES
vs.
ROB'T B. KINGSBURY. } No. 230.

Ordered that this cause be continued.

FRIDAY, *November 28th*, 1884.

THE UNITED STATES
vs.
R. B. KINGSBURY. } No. 230.

Ordered that this cause be continued by defendants.

148 SATURDAY, *July 11th*, 1885.

THE UNITED STATES, *vs.* R. BATES KINGSBURY, et als. } No. 230.

This day, this cause being called, and it appearing to the court that the parties plaintiff and defendants have filed an agreement in writing stipulating that the venue of this cause be changed from this court to the circuit court for the 5th judicial circuit and western district of Texas, sitting in the city of Austin, Texas; it is therefore ordered by the court that the above cause be, and the same is ordered transferred for trial from this court to the honorable circuit court for the 5th circuit and western district of Texas, sitting at Austin City, Texas. And it is further ordered that the clerk of this court at once transmit all the original papers on file in this cause to the clerk of the circuit court at Austin, Texas, and that he send with said papers a certified transcript from the records of this court of all the original entries, orders, and judgments in the said cause, certified under the seal of this court.

THE STATE OF TEXAS,
Western District:

I, Charles F. Tilghman, clerk of the circuit court for the western district of Texas, sitting at Brownsville, Texas, do hereby certify that
149 the above and foregoing five pages is a true and correct copy and transcript from the records of the United States circuit court, sitting at Brownsville, Texas, of all the original entries in the said cause of No. 230, The United States against R. B. Kingsbury et al.

Witness my hand and seal of office, the western district of Texas, sitting at Brownsville, Texas, this 20th day of July, A. D. 1885.

CHAS. F. TILG'MAN,
Clerk.

(Endorsed in the following words, to wit: A transcript of all original orders, entries, and judgments in cause No. 230, entitled the United States vs. Robt. Bates Kingsbury et al. Filed this 31 day of July, A. D. 1885. Sam Hopkins, clerk of circuit court.

150 DEPARTMENT OF JUSTICE,
OFFICE OF THE SOLICITOR OF THE TREASURY,
Washington, D. C., April 15th, 1888.

SIR: The First Comptroller informs me that by a supplemental adjustment of the revenue account of Robert B. Kingsbury as collector of internal revenue, second Texas, the balance claimed has been reduced to the sum of $13,282.60.

You will please, therefore, press the case to trial for the reduced balance.

Very respectfully,

A. MCCUE,
Solicitor of the Treasury.

A. J. EVANS, Esq.,
U. S. Att'y, W. D., Austin, Texas.

(Endorsed in the following words, to wit:) Filed this 31 day of July, A. D. 1885. Sam Hopkins, clerk circuit court.

151 In United States circuit court, transferred from Brownsville to Austin.

UNITED STATES
vs.
KINGSBURY ET AL. } No.

Second supplemental answer of defendants, Phillips, Lane, and Mussina, being response to plaintiff's second amended original petition, filed April 30, 1883.

Said defendants answering said petition say:

1. That said petition is insufficient in law, wherefore they pray judgment, etc.

2. Further excepting to said petition, said defendants say that said petition is defective in this that it fails to allege or state the time when the defendant, Kingsbury, entered upon the duties of his office as collector, etc.

3. Further excepting to said petition, said defendants say that the same is defective in this that it fails to allege or state the time when the defendant, Kingsbury, ceased to act as collector, etc., and when his alleged successor in office was appointed and qualified, and when the said Kingsbury's term of office expired, etc.

4. Further excepting to said petition, said defendants say that the same is defective in this that it does not allege or state the time when the revenue account of the defendant, Kingsbury, with the plaintiff was adjusted and the alleged balance to plaintiff found to be due, etc.

152 5. Further excepting to said petition, said defendants say that the same is defective in this that it does not allege or state the times or periods when the defendant, Kingsbury, collected the taxes in money with respect to which the default is alleged against him or the amounts in money of the taxes so alleged to have been collected.

6. Further excepting to said petition, said defendants say that the same is defective in this that it does not allege or state when the different tax-rolls mentioned in said petition, for the uncollected taxes thereon for which he is sued, were placed in the hands of said Kingsbury or turned over to him for collection.

7. Further excepting to so much of said petition as alleges that certain letters and correspondence between the Comptroller and the Commissioner do not amount to a certificate of due diligence, etc., said defendants say that the same is irrelevant and impertinent.

8. Further excepting to so much of said petition as refers to and relies upon certain lists of taxes, on official Form No. 23½, said defendants say that the same is defective in this that the substance and purport of said lists are not stated, and that the said lists do not, as an exhibit to said petition or otherwise, constitute in whole or in part any cause of action against them.

9. Further excepting to so much of said petition as refers to and relies upon a certain Treasury statement, marked Exhibit A, said defendants say that the same is defective in this that the nature, character, sub-

153 stance, or purport of said statement is not set forth in said petition, and that the said statement neither as an exhibit to said petition or

otherwise constitutes in whole or in part any cause of action against them; and for the further reason that in and by said Exhibit A these defendants, and each of them, are sought to be charged with and made liable for tax-rolls and moneys collected upon tax-rolls of one R. H. Lane, who, by said Exhibit A, is styled and spoken of as the "successor" in said office of collector of internal revenue of the principal defendant, Kingsbury.

10. Further excepting to so much of said petition as refers to and relies upon a certain bond marked Exhibit A said defendants say that said bond does not, as an exhibit to said petition or otherwise, constitute in this suit any cause of action against said defendants, and that the same as exhibited is void in law and wholly insufficient.

11. Further excepting to so much of said petition as makes an exhibit of and relies upon the bond above mentioned, said defendants say that said bond is not binding upon said defendants, because (1), said bond is not good either as a statutory or voluntary bond; and (2), if otherwise good, it is invalid because it imposes upon the obligors duties and burdens more onerous than are required by law, and which are contrary to law; and (3),
154 because it appears from said bond and the affidavit annexed thereto, that the defendant, Kingsbury, was not eligible to office under the Constitution and laws of the United States.

12. Further excepting to so much of said petition as states that in the bond sued on by clerical error the amount thereon is written "fifty thousand thousand dollars" instead of "fifty thousand dollars," said defendants say that the same is defective in this that it seeks to contradict and vary the terms of said bond and the conditions thereof.

13. Further excepting to said petition, said defendants say that it is vague and uncertain and does not show with sufficient certainty when and how defendant, Kingsbury, became liable as charged in said petition or upon which branch of the different accounts said Kingsbury was required to keep as collector of internal revenue as charged.

14. Further excepting to said petition, said defendants say that the alleged cause of action as therein set forth is a stale demand.

15. Further excepting to said petition, said defendants say that the same is defective in this that the defendant, Kingsbury, is sued by virtue of having been and is described therein as collector of internal revenue for the second district of Texas, whereas in the said pretended bond, which is made an exhibit to said petition, his official name and character is set out as "collector of taxes."

And without waiving the foregoing demurrer, but relying upon each and all of them, said defendants, further answering the said petition, say:

155 1. That they deny all and singular the allegations in the said petition contained except as hereinafter expressly admitted.

2. They deny that the defendant, Kingsbury, has committed any breaches of the conditions of the bond or writing obligatory as in said petition assigned and alleged, but on the contrary, they aver that the said Kingsbury and these defendants have in all respects truly observed, performed, and kept all and singular the conditions and requirements on their part in this behalf to be kept and performed.

3. They further deny that they are indebted to the plaintiff in manner and form as in said petition alleged.

4. Further answering these defendants say that if the said defendant, Kingsbury, was guilty of any breaches of said bond or was at any time indebted to the plaintiff thereunder, which is denied, that such breaches and indebtedness occurred and the cause of action accrued to the plaintiff more than 13 years before the bringing of this suit, and that plaintiff's claim is a stale demand and no recovery should now be had thereon because of the gross laches, delay, etc., on the part of plaintiff.

5. Further answering said defendants say that if the defendant, Kingsbury, was commissioned as collector of internal revenue for the second district of Texas, as in said petition alleged, which is denied, then said commission was issued on and bears date June 21, 1865, and by its
156 express terms was to last or continue in force only until the end of the next session of the United States , which said session ended July 28, 1866. And said defendants in this behalf further allege that the said Kingsbury was not by said Senate or any other power reappointed to or continue in said office, and that he held said office for the term aforesaid by virtue of the commission aforesaid and solely under the terms and during the life of said commission, which expired on said July 28, 1866. That no liability for any of the acts, doings, or indebtedness of said Kingsbury could or did accrue to these defendants or either of them as sureties on said bond after said last-mentioned date. That if any defalcation or breach of said bond on the part of the said Kingsbury for which he could be held legally liable ever at any time took place or occurred the same took place and occurred after said 28th day of July, 1866. Wherefore these defendants say they are not liable as sureties upon said bond for any such defalcation or breach.

6. Further answering, these defendants say that on or about Dec. 16, 1867, said Kingsbury had a full, complete, and final settlement with the proper accounting officers of the plaintiff, to wit: The Commissioner, Comptroller, and others, as provided and required by law, of all the accounts, acts, and doings of him, the said Kingsbury as said collector of internal revenue, and thereupon said Kingsbury was found and adjudged by the said accounting officers to have in all things complied with the
157 law as such officer, and not to be in default, or in debt to said plaintiff, but on the contrary there was then and there found a cash balance due from plaintiff to said Kingsbury in the sum of $6,123.13, which said sum was then and there paid to said Kingsbury, as will more fully appear by the "Fifth Auditor's final report, No. 1845, on account of Rob't B. Kingsbury, late collector and disbursing agent for the second district of Texas, etc," that by force of said settlement and payment all the matters and things in any wise pertaining to the office, bonds, etc., of said Kingsbury were fully and finally settled, terminated, discharged, and adjudicated, and these defendants as sureties were thereby fully and forever released from all obligation upon said bond.

7. Further answering, these defendants say, that on or about the 1st day of October, 1866, one R. H. Lane was appointed and qualified as collector of internal revenue for the second district of Texas, and the said Kingsbury thereafter, to wit, on or about the 23rd day of October, 1866, turned over to the plaintiff the rolls and lists of uncollected taxes then

in said Kingsbury's hands, which said rolls and lists were, by the plaintiff, turned over to the said Lane, who received the same and proceeded to collect the taxes thereon. And these defendants further say in this behalf that if any neglect or failure to perform any duty with respect to the collection of taxes on said rolls, or if any defalcation occurred in any collection made thereon, such neglect and failure and such defalcation
158 occurred by the acts of the said Lane after the said plaintiff had turned over to him the said rolls, and not by any act of the said Kingsbury. Wherefore these defendants say that the said plaintiff, by receiving the said rolls and lists from the said Kingsbury and turning the same over to the said Lane, the said Kingsbury was released and discharged of all obligation, duty, or liability, with respect to said rolls, and these defendants insist that they, as sureties of the said Kingsbury, can in no wise be held liable therefor. That said plaintiff has continued ever since to turn over said rolls or the uncollected portions thereof to the successors of the said Lane, to wit, L. G. Brown, W. A. Saylor, and W. H. Sinclair.

That upon said rolls so turned over by the Government to said Lane and his successors was the sum of $194,356.14, uncollected taxes, which sum has been by the proper departments of the United States—plaintiff herein—and the said Lane and his different successors collected, settled, abated, and adjusted as follows, to wit:

Uncollected taxes		$194,356.14
Abated by Com'r of Int. Rev	$154,547.03	
Collected by R. H. Lane (successor)	$25,390.67	
Collected by L. G. Brown (successor)	$83.25	
Collected by W. A. Saylor (successor)	$191.39	
		$180,212.34
Balance uncollected taxes on said rolls		$14,143.80

That the said balance of $14,140.80 uncollected taxes on said rolls is the identical matter, item and amount, for which plaintiff sues
159 herein and none other. That this balance has been reduced by plaintiff as per instructions on file with the papers in this case.

8. Further answering, these defendants say that if they became responsible to the plaintiff on the bond of said Kingsbury, which is denied, such responsibility ceased and absolutely determined at the end of the Senate, as hereinbefore stated, to wit, on July 28, 1866. That at that time said Kingsbury had committed no breach of said bond and was not indebted to the plaintiff.

That if the plaintiff permitted said Kingsbury, who was ineligible to office and whose term of appointment had expired, to continue to represent the Government after the expiration of his term, it was without the consent of these defendants and upon the sole responsibility of plaintiff.

That during the period from July 28, 1866, to the 23rd day of October, 1866, when the plaintiff took from said Kingsbury the uncollected tax rolls and turned them over to said R. H. Lane, said Kingsbury paid to plaintiff more than enough to fully satisfy all claims of plaintiff against him, and plaintiff in recognition of this fact actually paid to said Kings-

bury as a balance due him, on the 20th day of December, 1867, the sum of $16,123.13, on account of compensation for collecting on said tax lists and for salary, etc.

That from the action of the plaintiff as heretofore stated these de-
160 fendants as sureties of said Kingsbury had the right to assume, as they did do, that said Kingsbury had made a satisfactory settlement with plaintiff, in consequence of which they took no steps to protect themselves, as they otherwise would have done. And in this connection these defendants further say that not only did plaintiff pay to said Kingsbury a balance of $6,123.13, and take from said Kingsbury the uncollected tax rolls and upon plaintiff's sole responsibility turn them over to said R. H. Lane, as hereinbefore stated, but upon proof to the satisfaction of the Commissioner of Internal Revenue, said Commissioner on or about December 16, 1867, certified and admitted in behalf of plaintiff, to the First Comptroller of the Treasury, that due diligence had been used by said Kingsbury in such manner as to entitle said Kingsbury to a credit on all uncollected rolls and lists and other matters covered, according to its true intent and meaning, by section 3218, Revised Statutes, United States.

That after the transaction last mentioned the said Kingsbury, and especially these defendants as sureties, relied upon, as they had the right to do, the good faith of plaintiff, and these defendants never supposed until about thirteen years afterwards, when the suit was instituted, that plaintiff would attempt to undo what had been done, or attempt in any way to hold these defendants to any liability as sureties for said Kingsbury.

That said Kingsbury is now insolvent and unable to respond to the judgment sought in this suit.

161 That had not the plaintiff recognized said Kingsbury's non-indebtedness and given him the certificate hereinbefore mentioned and paid him the balance of $6,123.13, and by acquiescence and delay for more than thirteen years, admitted, in effect, that plaintiff had no claim against said Kingsbury or his sureties, these defendants would have taken steps to protect themselves, as they could have done, for said Kingsbury then had means, and while the facts were fresh in the minds of all parties and proofs accessible they would have obtained an adjustment and settlement of all matters embraced in this suit.

9. Further answering, these defendants say that it appears by the statement made a part of said petition that the said Kingsbury was chargeable as follows:

For all tax lists receipted for	$291,520.23
And for taxes collected and not receipted for	$18,357.30
Making a debit of	$309,877.53
That he is credited with cash paid in by various warrants on account of said tax lists	$249,495.76
And abatements as follows	$154,547.03
	$25,476.92
	$3,617.71
Making total credits	$433,137.42

Which leaves a balance in favor of said Kingsbury of $123,259.89, which said balances more than covers and discharges any liability which
162 could be asserted against these defendants as sureties of the said Kingsbury.

J. B. WILLS,
A. J. PULER,
For Def'ts.

(Endorsed in the following words, to wit:) No. 1996. In U. S. circuit court. United States vs. Kingsbury et al. Filed August 29, 1885. Sam Hopkins, cl'k.

163 In the United States circuit for the 5th circuit, &c., &c., sitting at Austin.

THE UNITED STATES
vs.
R. B. KINGSBURY, S. MUSSINA, W. J. PHILLIPS.

Now comes the plaintiff and moves the court for leave to file trial amendment in this cause, and having obtained such leave says that the original bond of R. B. Kingsbury, collector, &c., &c., is on file in Washington City; that plaintiff has heretofore file' transcript of said and the same part of her pleadings; but, she says, inasmuch as the said transcript of the bond so filed is subject to question in its authentication as a copy, plaintiff herewith files new transcript of bond, makes the same part of her pleadings, as Exhibit "Y," and prays the same be taken, &'.

A. J. EVANS.

(Endorsed in the following words, to wit:) No. 1996. U. S. vs. R. B. Kingsbury et al. Trial am't. Filed August 29th, 1885. Sam Hopkins, clerk.

164 [Office of the Register of the Treasury—Form 1.]

Transcript certificate.

[C. T. N.] TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., August 5th, 1882.

Pursuant to section 886 of the Revised Statutes of the United States, I, B. K. Bruce, Register of the Treasury Department, do hereby certify that the annexed is a true copy of the original official bond of Robert B. Kingsbury, late collector of internal revenue for the second district of Texas, on file in the Treasury Department.

B. K. BRUCE,
[S. A. J.] *Register.*

Be it remembered that B. K. Bruce, esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof, I, Chas. J. Folger, Secretary of the Treasury of the United States, have hereunto subscribed my name, and caused to be affixed the seal of this Department, at the city of Washington, this 5th day of August, in the year of our Lord 1882.

CHAS. J. FOLGER,
Secretary of the Treasury.

[W. N.]

165 DISTRICT OF COLUMBIA,
County of Washington:

I solemnly swear that I own and possess property worth ten thousand dollars over and above all my debts and liabilities.

SIMON MUSSINA.

Sworn to and subscribed before me this 25th day of July, A. D. 1865.
[NOTARIAL SEAL.] N. CALLAN,
Notary Public.

(Int. rev. 5-cent stamp.)

DISTRICT OF COLUMBIA,
County of Washington:

I solemnly swear that I own and possess property worth ten thousand dollars over and above all my debts and liabilities.

R. N. LANE.

Sworn to and subscribed before me this 13 day of July, A. D. 1865.
[NOTARIAL SEAL.] N. CALLAN,
Notary Public.

(Int. rev. 5-cent stamp.)

166 DISTRICT OF COLUMBIA,
County of Washington:

I solemnly swear that I own and possess property worth ten thousand dollars over and above all my debts and liabilities.

SAMUEL F. BARR.

Sworn to and subscribed before me this 15th day of July, A. D. 1865.
[NOTARIAL SEAL.] N. CALLAN,
Notary Public.

(Int. rev. 5-cent stamp.)

DISTRICT OF COLUMBIA,
County of Washington:

I solemnly swear that I own and possess property worth ten thousand dollars over and above all my debts and liabilities.

CHARLES WORTHINGTON.

Sworn to and subscribed before me this 13th day of July, A. D. 1865.
[NOTARIAL SEAL.] N. CALLAN,
Notary Public.

(Int. R. 5-cent stamp.)

167 Know all men by these presents, that we, Robert Bates Kingsbury, of Brownsville, Cameron County, Texas, William Joseph Phillips, of Wharton County, in the State of Texas, & Charles Worthington, Corpus Christi, State of Texas, Rich'd N. Lane, Austin, Texas, Sam'l F. Barr, of Harrisburg, Penny., and Simon Mussina, of New York City, N. Y., are held and firmly bound unto the United States of America in the full and just sum of fifty thousand thousand dollars, money of the United States; to which payment well and truly to be made, we bind ourselves, jointly and severally, our joint and several heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated this eight' day of July in the year one thousand eight hundred and sixty-five.

The condition of the foregoing obligation is such that, whereas the President of the United States hath, pursuant to law, appointed the said Robert Bates Kingsbury collector of taxes under an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes:" Now, therefore, if the said Robert Bates Kingsbury shall truly and faithfully execute and discharge all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in
168 compliance with the orders and regulations of the Secretary of the Treasury, all public moneys which may come into his hands or possession, and if each and every deputy collector appointed by said collector according to law, then the above obligation to be void and of no effect; otherwise it shall abide and remain in full force and virtue.

ROBERT BATES KINGSBURY.
WILLIAM JOSEPH PHILLIPS.
CHARLES WORTHINGTON.
RICHARD NEWTON LANE.
SAMUEL F. BARR.
SIMON MUSSINA.

Sealed and delivered in the presence of as to R. B. K. and W. J. P.: N. Callan, N. Callan, jur. N. Callan as to C. Worthington. C. H. Wileberger, do. As to R. N. L., S. F. B., and S. M.: N. Callan, jur., N. Callan.

(1 Dollar, 1. U. S. Int. Rev. Conveyance. 1 Dollar, 1.)

169 DISTRICT OF COLUMBIA,
County of Washington, to wit:

I, Robert B. Kingsbury, do solemnly swear, with the annexed exceptions, that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States *States*; that I have not yielded a voluntary support to any pretended government, authority, or constitution within the United States hostile or inimical thereto; and I do further swear that to the best of my knowledge and ability I will support and defend the Constitution of the United States against all enemies, foreign and

domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

ROBERT B. KINGSBURY.

Sworn and subscribed before me this 17th day of July, A. D. 1865.
[NOTARIAL SEAL.] N. CALLAN,
Notary Public.

(5 ct. stamp.)

170 I was deputy collector of customs under the U. S. Gover'nt when the rebellion commenced, and held that office under rebel authority, as I feared for my personal safety if I resigned at that time, but subsequently resigned, giving to the collector as a reason for resigning the fact of my being a Union man; was also an alderman of the city of Brownsville, Texas, under rebel authority, which position was almost nominal and was held by me previous to the war; have been a member of a military company for home service or protection. I opposed the ordinance of secession, and have been from the commencement of the rebellion a sincere & earnest Union man; I may have given aid, counsel, countenance, or encouragement to persons engaged in armed hostility to the United States, as I have dealt with and paid money to individual rebels, and taxes to rebel authorities, and conformed unwillingly in various ways, perhaps, to rebel rule, but abandoned my property in Texas subsequently, and was an exile at the time of Kerby Smith capitulation, and have the pardon of the President.

ROBERT B. KINGSBURY.

Robert B. Kingsbury, coll'r 2nd dist. Texas, July 17th, '65. Oath of allegiance.

(Endorsed in the following words, to wit:) No. . U. S. vs. R. B. Kingsbury, et al. Exhibit "Y." Filed August 29th, 1885. Sam Hopkins, clerk.

171 U. STATES
vs.
KINGSBURY ET ALS. } No.

Now come the defendants, and move the court to strike out and hold for naught the so-called "trial amendment," filed by the plaintiff herein on this day, because no such pleading is known to or recognized by the rules of pleading governing this court, &c., &c. Wherefore, &c., &c.

PEELER & WELLS & HICKS,
Att'ys for Def't.

(Endorsed in the following words, to wit:) No. 1990. United States vs. Kingsbury et al. Motion to strike out trial amendment. Filed August 29, '85. Sam Hopkins, cl'k.

172 [Office of the Register of the Treasury—Form 1.]

[C. T. N.] *Transcript certificate.*

TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., April 22d, 1882.

Pursuant to section 886 of the Revised Statutes of the United States, I, B. K. Bruce, Register of the Treasury Department, do hereby certify that the annexed is a transcript from the books and proceedings of the Treasury Department in the case of Robert Bates Kingsbury, late collector of internal revenue for the second district of Texas, on file in this office.

B. K. BRUCE,
Register.

[S. A. J. P.]

Be it remembered, that B. K. Bruce, esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, Charles J. Folger, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department at the city of Washington this 22 day of April, in the year of our Lord 1882.

CHAS. J. FOLGER,
Secretary of the Treasury.

173 No. 629.] TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE,
June 15, 1867.

I hereby certify that I have examined and adjusted an account between the United States and R. B. Kingsbury, late collector for the second district of Texas, from July 17, 1865, to December 31, 1865, for salary, commissions, and expenses, and find him entitled to credit as follows:

By stationery and blank books	$147.06	
" postage	57.64	
" express and depositing money	600.95	
" advertising	83.00	
" amount of office expenses allowed in lieu of compensation, the collector not being able to take the oath	5,880.79	
		$6,769.44

I also find him chargeable as follows for amounts received from the collector acting as disbursing agent.

Expenses of administering office for said period:		
Clerks	$1,705.00	
Deputies	$3,061.04	
Rent	350.00	
Miscel	764.75	
Total	$5,880.79	
Balance due collector	$6,769.44	
		$6,769.44

The said sum to be paid by a warrant issued in his favor, payable out of appro'n for expenses of collecting and assessing internal revenue "per sec. 1, act approved July 23, 1866. The accounts and vouchers are herewith transmitted for the decision of the Comptroller thereon.

C. M. WALKER,
Auditor.

To the FIRST COMPTROLLER OF THE TREASURY.

174 $6,769.44.] TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE,
June 22, 1867.

I admit and certify that six thousand seven hundred and sixty-nine $\frac{44}{100}$ dollars are due to the said late collector R. B. Kingsbury, to be passed to his credit, as late disbursing agent, on the books of the Register of the Treasury. Let a warrant issue for the sum of one thousand seven hundred and sixty-nine $\frac{44}{100}$ dollars ($1,769.44) in favor of said late collector and disbursing agent, with which he is to be charged, payable out of the appropriation for "Expenses of assessing and collecting internal revenue," of which amount the sum of $923.27 is to be covered to his credit on account of internal revenue, and $846.17 to be paid to him present.

The residue of the balance found due to him, say $5,000, to remain to the credit of the late collector and disbursing agent for further consideration.

R. W. TAYLER,
Comptroller.

To the REGISTER OF THE TREASURY.

175 *Statement of differences.*

Amount claimed per account	$6,906.19
" found due per adjustment	6,769.44
Difference collector's debit	$136.75

Explained thus:

The following bills are disallowed and suspended: bill of H. Haller, June 23, cash-box, $8.00, disall'd; bill of Phillipson & Moore, Feb'y 6, $6.00, disall'd; John H. Evans, Oct. 20, $7.00, disall'd; O. L. Schnaubert, Oct. 2, $3.00, disall'd. The last two bills are allowed as office expenses..	$24.00
Bills for office furniture, $232.75, and $150, are susp'd for receipt of successor	$382.75
Bill of James Coffee, dep. coll'r, reduced to the amount actually paid per accounts current	40.50
	447.25
From which deduct as follows:	
Am't of vouchers allowed in excess of amount claimed for office expenses	310.50
Diff. as above stated	$136.75

#362.75 of this all'd for office furniture per disb'g ℅ #1845.

FIFTH AUDITOR'S OFFICE,
June 15, 1867.

Examined and stated by W. Sommers.

COMPTROLLER'S OFFICE,
June 22, 1867.

Examined and reported by Alb't B. White.

[SEAL.]

176 *Supplementary.*

No. 4147.] TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE,
November 5, 1870.

I hereby certify that I have examined and adjusted an account between the United States and Robert B. Kingsbury, late collector for the second district of Texas, from October 2, 1865, to October 23, 1866, for salary, commissions, and expenses, and find him entitled to credit as follows:

By salary for said period in gross		$1,589.67
" amount collected during said period	$248,572.49	
" commissions on $105,978.24 at 3 per cent.	$3,179.25	
142,594.25 " 1 per cent.	1,425.94	
	$4,605.29	$4,605.29
		6,194.96

I also find him chargeable as follows:

For amounts received for office expenses, per report # 629	5,880.79
For tax on salary at 5 per cent. on excess of $600.00 per annum $47.69	47.69

Expenses of administering office for said period:

Clerks	$1,705.00	
Deputies	$3,061.04	
Rent	350.00	
Miscel.	764.75	
Total	$5,880.79	
Balance due the collector		266.48
		$6,194.96

The said balance to be paid to the late collector out of the appropriation by sec. 11, act July 15, 1870, " for compensation of persons

employed in insurrectionary States." Draft to be sent to Robert B. Kingsbury, Brownsville, Texas. The accounts and vouchers are herewith transmitted for the decision of the Comptroller thereon.

H. D. BARRON,
Auditor.

To the FIRST COMPTROLLER OF THE TREASURY.

177 [Endorsement.]

$266.48.] TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE,
January 4, 1871.

I admit and certify that two hundred and sixty-six and $\frac{48}{100}$ dollars are due and to be paid as stated in the above report.

WM. HEMPHILL JONES,
Acting Comptroller.

To the REGISTER OF THE TREASURY.

No a'c.

NOTE.—The records of the Department show that Collector Kingsbury was in office from October 2, 1865, to October 23rd, 1866, and there is no authority for allowing him compensation for any time beyond this.

FIFTH AUDITOR'S OFFICE,
October 5, 1870.

Examined and stated by Geo. L. Shivler.

COMPTROLLER'S OFFICE,
January 4, 1871.

Examined and reported by S. C. Clarke.

178 No. 1845.] TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE,
December 19, 1867.

I hereby certify that I have examined and adjusted an account between the United States and Robert B. Kingsbury, late collector and disbursing agent of internal revenue for the 2d district of Texas, from July 17, 1865, to Dec. 31st, 1866, and found him chargeable as follows, viz:

To warrant No. 4825, dated 25th June, 1867	$923.27
" " " 4826, " " " "	846.17
Balance due collector	6,123.13
	$7,892.57

I also find him entitled to credit as follows:

By balance from comp'n report No. 629, as per Register's certificate herewith		6,769.44
" amount of stationery, &c., used in office per vo's	740.60	
" " " clerk-hire, " " "		
" amount of charges for depositing money	323.13	
" amount of expressage on stationery	59.40	1,123.13
		7,892.57

I admit and certify that a balance of six thousand one hundred and twenty-three $\frac{13}{100}$ dollars is due to Robert B. Kingsbury, late collector 2d district, Texas; for which let a warrant issue, with which he is to be charged, payable out of appro'n for "Expenses of assessing and collecting int. rev.," per sec. 1, act approved July 23, 1866. Draft to be paid to him present.

As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

[SEAL.] C. M. WALKER,
Auditor.

To the FIRST COMPTROLLER OF THE TREASURY.

179 [Endorsement.]

$6,123.13.] TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE,
December 20, 1867.

I admit and certify that a balance of six thousand one hundred twenty-three & $\frac{13}{100}$ dollars is due and payable to the collector as stated in the above report.

R. W. TAYLER,
Comptroller.

To the REGISTER OF THE TREASURY.

No account rendered.

NOTE.—Bill of Fitch, Estee & Co., Sept. 18, 1865, disallowed; the items of cash-box $8.00, and letter-press $14.00; the latter because it does not appear in the receipt of the deputy collector as turned over to him by the late collector.

Charges for office furniture, suspended in Comp. rep. 629, are allowed herein, on receipt of deputy as received by him, to the amount of $362.75.

FIFTH AUDITOR'S OFFICE,
December 19, 1867.

Examined and stated by W. Sommers.

COMPTROLLER'S OFFICE,
December 20, 1867.

Examined by Felix Brannigan.

(Endorsed in the following words, to wit:) Exhibit 1, No. 4. U. S. vs. R. B. Kingsbury. Filed Aug. 31, 1885. Sam. Hopkins, clerk.

180 [Office of the Register of the Treasury.—Form 1.]

[M. H. B.] *Transcript certificate.*

TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., October 2, 1882.

Pursuant to section 886 of the Revised Statutes of the United States, I, W. P. Titcomb, Acting Register of the Treasury Department, do here-

by certify that the annexed copy of letter and endorsements thereon filed with the accounts of Robert B. Kingsbury, late collector internal revenue 2d district, Texas, is a true copy of the original on file in this office.

W. P. TITCOMB,
[M. H.] *Acting Register.*

Be it remembered that W. P. Titcomb, esq., who certified the annexed transcript, is now, and was at the time of doing so, Acting Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, John C. New, Acting Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department, at the city of Washington, this second day of October, in the year of our Lord, 1882.

JOHN C. NEW,
[W.] *Acting Secretary of the Treasury.*

181 TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, December 16, 1867.

R. P. Kingsbury assumed the duties of collector of the 2nd district Texas on the 2nd Oct., 1865, and being unable to subscribe to the oath required by act of Congress July 2d, 1862, retired therefrom on the 23d Oct., 1866, during which time he collected and deposited to the credit of the United States the sum of $257,126.75 and had a balance of uncollected taxes charged against him amounting to $194,356.14.

This amount his successor, Collector Lane, declines to receipt for, although repeatedly urged to do so. From all the facts connected with the case it appears that Mr. Kingsbury has used proper diligence in the discharge of his duties while acting as collector, and I therefore recommend that he be paid the amount found due on the adjustment of his compensation account, No. 629, the same being for expenses actually incurred in administering the office of collector.

E. A. ROLLINS,
Commissioner.

Hon. R. W. TAYLER,
Comptroller of the Treasury, Washington, D. C.

(Endorsed in the following words, to wit:) No. 1. Filed Aug. 31st, 1885. Sam Hopkins, clerk.

182 [Office of the Register of the Treasury.—Form 1.]

[M. H. B.] *Transcript certificate.*

TREASURY DEPARTMENT, REGISTER'S OFFICE.
Washington, D. C., October 2, 1882.

Pursuant to section 886 of the Revised Statutes of the United States, I, W. P. Titcomb, Acting Register of the Treasury Department, do hereby certify that the annexed copy of letter filed with the accounts of Robert B. Kingsbury, late collector of internal revenue 2d district Texas, is a true copy of the original on file in this office.

W. P. TITCOMB,
[M. H.] *Acting Register.*

Be it remembered that W. P. Titcomb, esq., who certified the annexed transcript, is now, and was at the time of doing so, Acting Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, John C. New, Acting Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department, at the city of Washington, this second day of October, in the year of our Lord 1882.

JNO. C. NEW,
[W.] *Acting Secretary of the Treasury.*

183 TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, December 18, 1867.

SIR: In reply to your letter dated to-day inquiring if there is any probability that Mr. Kingsbury, late collector of the 2d district of Texas, will be relieved by abatements of the taxes not collected by him, and not turned over to his successor, I have to say that there are claims in this office which have been allowed amounting to $8,749.16, for which there will soon be issued an order of abatement.

There was also claimed upon the same schedule $19,150.84, which was rejected, but if presented again, accompanied with satisfactory evidence that the same should be abated, it will be allowed and the amount credited to Mr. Kingsbury.

Very respectfully,

E. A. COLLINS,
Commissioner.

Hon. R. W. TAYLER,
Comptroller.

[Endorsements.]

Of the $19,150.84, not yet allowed, one item, $18,050, against Francis Ytrnia, which is claimed to be an illegal assessment. The collector was directed to suspend proceedings for its collection and the subject was referred to the assessor.

J. J. KIMBALL,
Cl'k.

184 INT. REV. OFFICE, *Dec.* 18, 1867.

COMPTROLLER'S OFFICE,
Dec. 18, 1867.

This paper, with the certificate of diligence from the Commissioner, will authorize the payment of the expenses found due Mr. K.

R. W. T.

(Endorsed in the following words, to wit:) No. 2. Filed Aug. 31st, 1885. Sam Hopkins, clerk.

185 [Office of the Register of the Treasury.—Form 1.]

[M. W. B.] *Transcript certificate.*

TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., October 2, 1882.

Pursuant to section 886 of the Revised Statutes of the United States, I. W. P. Titcomb, Acting Register of the Treasury Department, do hereby certify that the annexed copy of letter and indorsement thereon, filed with the accounts of Robert B. Kingsbury, late collector internal revenue 2nd district, Texas, is a true copy of the original on file in this office.

W. P. TITCOMB,
[M. H.] *Acting Register.*

Be it remembered that W. P. Titcomb, esq., who certified the annexed transcript, is now and was at the time of doing so, Acting Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof, I, John C. New, Acting Secretary of the Treasury of the United States, have hereunto subscribed my name, and caused to be affixed the seal of this Department, at the city of Washington, this second day of October, in the year of our Lord 1882.

JNO. C. NEW,
[W.] *Acting Secretary of the Treasury.*

186 TREASURY DEPARTMENT, COMPTROLLER'S OFFICE,
June 24, 1867.

SIR: On adjustment of the account Mr. Robert B. Kingsbury, lately acting as collector of the 2nd district of Texas, there appears a balance of $241,449.52 against him, of which, according to his statement, $923.27 is for moneys collected, and the residue $241,526.25 is the amount of lists turned over to Mr. Lane, the present collector. Mr. Kingsbury thinks that under the circumstances of his discharging the duties of collector, and those attending the succession of Mr. Lane, he ought not to be held to the rule heretofore adopted in relation to withholding compensation due an outgoing collector until the settlement and closing of his accounts as collector of the revenue.

As you are aware, the payment of compensation is thought not to be authorized in Mr. Kingsbury's case, and hence in stating his account on the form used for compensation and expenses, the sums allowed are only those actually expended in the collection of the revenue, which amount to $6,769.44
Deduct balance due U. S. on revenue account of collections... 923.27

Leaves due Mr. Kingsbury $5,846.17

Be pleased to inform me whether it is probable he will ultimately be liable on the lists not collected by him, and whether, in your opin-
187 ion, it would be proper and just to withhold from him the above balance or any part of it.

Very respectfully,

R. W. TAYLER,
Comptroller.

Hon. E. A. ROLLINS,
Com'r Int. Revenue.

[Endorsement.]

TREASURY DEPT., OFFICE INTERNAL REVENUE,
June 24, 1867.

Respectfully returned to Hon. R. W. Tayler, 1st Comptroller, with the recommendation that $846.17 be paid to Mr. Kingsbury, and the $5,000.00 be withheld until his revenue account is settled.

E. A. ROLLINS,
Commissioner.

(Endorsed in the following words, to wit:) Filed Aug. 31st, '85. Sam. Hopkins, clerk.

188 In the honorable United States circuit court for the 5th circuit and western district of Texas, holding sessions in the city of Austin, at its Aug. term, 1885, by transfer from the Brownsville branch of court.

THE UNITED STATES
vs.
R. B. KINGSBURY ET AL. } No. 230.

Suit on internal-revenue collector's bond for $14,170.20.

Be it remembered that, on trial of this cause in the court, the plaintiff by her att'y, and the def'ts in person and by his attorney, and announced themselves ready for trial; and the pleading of the parties being read, and the jury in due form having been waived, the plaintiff offered in evidence before the court, 1st, a certified transcript from the Department of the original official bond of R. B. Kingsbury as collector of internal revenue, file in this cause Aug. 29, 1885, and marked "Y."

189 [Office of the Register of the Treasury—Form 1.]

[C. T. N.] *Transcript certificate.*

TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., August 5th, 1882.

Pursuant to section 886 of the Revised Statutes of the United States, I, B. K. Bruce, Register of the Treasury Department, do hereby certify that the annexed is a true copy of the original official bond of Robert B. Kingsbury, late collector of internal revenue for the second district of Texas, on file in the Treasury Department.

B. K. BRUCE,
[S. A. J.] *Register.*

Be it remembered that B. K. Bruce, esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, Chas. J. Folger, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department at the city of Washington this 5th day of August, in the year of our Lord 1882.

[SEAL.]
[W. N.] CHAS. J. FOLGER,
Secretary of the Treasury.

190 DISTRICT OF COLUMBIA,
County of Washington:

I solemnly swear that I own and possess property worth ten thousand dollars over and above all my debts and liabilities.

SIMON MUSSINA.

Sworn to and subscribed before me this 25th day of July, A. D. 1865.
[NOTORIAL SEAL.] N. CALLAN,
Notary Public.

(Int. rev. 5-cent stamp.)

191 DISTRICT OF COLUMBIA,
County of Washington:

I solemnly swear that I own and possess property worth ten thousand dollars over and above all my debts and liabilities.

R. N. LANE.

Sworn to and subscribed before me this 13 day of July, A. D. 1865.
[NOTORIAL SEAL.] N. CALLAN,
Notary Public.

(Int. rev. 5-cent stamp.)

DISTRICT OF COLUMBIA,
County of Washington:

I solemnly swear that I own and possess property worth ten thousand dollars aver and above all my debts and liabilities.

SAMUEL F. BARR.

Sworn to and subscribed before me this 15th day of July, A. D. 1865.
[NOTORIAL SEAL.] N. CALLAN,
Notary Public.

(Int. rev. 5-cent stamp.)

192 DISTRICT OF COLUMBIA,
County of Washington:

I solemnly swear that I own and possess property worth ten thousand dollars over and above all my debts and liabilities.

CHARLES WORTHINGTON.

Sworn to and subscribed before me this 13th day of July, A. D. 1865.
[NOTORIAL SEAL.] N. CALLAN,
Notary Public.

(Int. R. 5-cent stamp.)

193 Know all men by these presents that we, Robert Bates Kingsbury, of Brownsville, Cameron County, Texas, William Joseph Phillip, of Wharton County, in the State of Texas, & Charles Worthington, Corpus Christi, State of Texas, Rich'd N. Lane, Austin, Texas, Sam'l F. Barr, of Harrisburg, Penn'y, and Simon Mussina, of New York City, N. Y., are held and firmly bound unto the United States of America in the full and just sum of fifty thousand thousand dollars, money of the United States, to which payment well and truly to be made we bind ourselves, jointly and severally, our joint and several heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated

this eighth day of July, in the year one thousand eight hundred and sixty-five.

The condition of the foregoing obligation is such that, whereas, the President of the United States hath, pursuant to law, appointed the said Robert Bates Kingsbury collector of taxes, under an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes:" Now, therefore, if the said Robert Bates Kingsbury shall truly and faithfully execute and discharge all the duties of the said office according to law, and shall justly and faithfully account for and pay over to the United States, in compliance with the orders and regulations of the Secretary of the Treasury,
194 all public moneys which may come into his hands or possession, and if each and every deputy collector appointed by said collector shall truly and faithfully execute and discharge all the duties of such deputy collector according to law, then the above obligation to be void and of no effect; otherwise it shall abide and remain in full force and virtue.

ROBERT BATES KINGSBURY.
WILLIAM JOSEPH PHILLIPS.
CHARLES WORTHINGTON.
RICHARD NEWTON LANE.
SAMUEL F. BARR.
SIMON MUSSINA.

Sealed and delivered in the presence of, as to R. B. K. & W. J. P.: N. Callan, N. Callan, jr. N. Callan as to C. Worthington, C. H. Willberger, cl'k. As to R. N. L., S. F. B., & S. M.: N. Callan, ju'r, N. Callan.

(Dollar 1, U. S. int. rev. Conveyance. Dollar 1.)

195 DISTRICT OF COLUMBIA,
County of Washington:

I solemnly swear that I own and possess property worth ten thousand dollars over and above my debts and liabilities.

WILLIAM JOSEPH PHILLIPS.

Sworn and subscribed before me this eighth day of July, A. D. 1865.
[NOTARIAL SEAL.] N. CALLAN,
Not'y Public.

(Int. rev. 5-ct. stamp.)

196 DISTRICT OF COLUMBIA,
County of Washington, to wit:

I, Robert B. Kingsbury, do solemnly swear, with the annexed exceptions, that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted nor attempted to exercise the functions of any office whatever under any authority or pretended authority in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And

I do further swear that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

ROBT. B. KINGSBURY.

Sworn and subscribed before me this 17th day of July, A. D. 1865.

[NOTARIAL SEAL.] N. CALLAN,
Notary Public.

(5-ct. stamp.)

197 I was deputy collector of customs under the U. S. Gover'nt when the rebellion commenced, and held that office under rebel authority, as I feared for my personal safety if I resigned at that time, but subsequently resigned, giving to the collector as a reason for resigning the fact of my being a Union man; was also an alderman of the city of Brownsville, Texas, under rebel authority, which position was almost nominal and was held by me previous to the war; have been a member of a military company for home service or protection.

I opposed the ordinance of secession and have been from the commencement of the rebellion a sincere and earnest Union man. I may have given aid, counsel, or countenance, or encouragement to persons engaged in armed hostility to the United States, as I have dealt with and paid money to individual rebels and taxes to rebel authorities and conformed unwillingly, in various ways, perhaps, to rebel rule, but abandoned my property in Texas subsequently, and was an exile at the time of Kerby Smith's capitulation and have the pardon of the President.

ROBT. B. KINGSBURY.

Robert B. Kingsbury, coll'r 2nd dis. Texas, July 17th, '65. Oath of allegiance.

198 (Endorsed in the following words, to wit:) No. U. S. vs. R. B. Kingsbury et al. Exhibit "Y." Filed August 29th, 1885. Sam Hopkins, clerk.

199 2*d*. *A Treasury transcript of the acc'ts of Robt. B. Kingsbury, collector of int. rev., &c.*

200 [Office of the Register of the Treasury.—Form 1.]

[C. T. N.] *Transcript certificate.*

TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., April 22d, 1882.

Pursuant to section 886 of the Revised Statutes of the United States, I, B. K. Bruce, Register of the Treasury Department, do hereby certify that the annexed is a transcript from the books and proceedings of the Treasury Department in the case of Robert B. Kingsbury, late collector of internal revenue for the second district of Texas, on file in this office.

B. K. BRUCE,

[S. A. J. P.] *Register.*

Be it remembered that B. K. Bruce, esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, Charles J. Folger, Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department, at the city of Washington, this 22 day of April, in the year of our Lord 1882.

[SEAL.] CHAS. J. FOLGER.

201 No. 629.] TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE,
June 15, 1867.

I hereby certify that I have examined and adjusted an account between the United States and R. B. Kingsbury, late collector for the second district of Texas, from July 17, 1865, to December 31, 1866, for salary, commissions, and expenses, and find him entitled to credits as follows:

By stationery and blank books	$147.06	
By postage	57.64	
By express and depositing money	600.95	
By advertising	83.00	
By amount of office expenses allowed in lieu of compensation, the collector not being able to take the oath	5,880.79	
		$6,769.44

I also find him chargeable as follows for amounts received from the collector acting as disbursing agent:

Expenses of administering office for said period:		
Clerk	$1,705.00	
Deputies	3,061.04	
Rent	350.00	
Miscel.'	764.75	
Total	$5,880.79	
Balance due collector		$6,769.44 $6,769.44

The said sum to be paid by a warrant issued in his favor payable out of appro'n for "Expenses of collecting and assessing internal revenue," per sec. 1, act approved July 23, 1866. The accounts and vouchers are herewith transmitted for the decision of the Comptroller thereon.

C. M. WALKER,
Auditor.

TO THE FIRST COMPTROLLER OF THE TREASURY.

202 $6,769\frac{44}{100}$.] TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE,
June 22, 1867.

I admit and certify that six thousand seven hundred and sixty-nine $\frac{44}{100}$ dollars are due to the said late Collector R. B. Kingsbury, to be passed to his credit as late disbursing agent on the books of the Register of the

Treasury. Let a warrant issue for the sum of one thousand seven hundred and sixty-nine $\frac{44}{1}$ dollars ($1,769.44) in favor of said late collector and disbursing agent, with which he is to be charged, payable out of the appropriation for "Expenses of assessing and collecting internal revenue," of which amount the sum of $923.27 is to be covered to his credit on account of internal revenue, and $846.17 to be paid to him present. The residue of the balance found due to him, say $5,000.00, to remain to the credit of the late collector and disbursing agent for further consideration.

R. W. TAYLOR,
Comptroller.

TO THE REGISTER OF THE TREASURY.

203 *Statement of differences.*

Amount claimed per account	$6,906.19
" found due per adjustment	6,769.44
Difference collector's debit	$136.75

Explained thus:

The following bills are disallowed and suspended: Bill of H. Haller, June 23, cash-box. $8.00, disall'd; bill of Phillipson & Moore, Feb'y 6, $6.00, disall'd; John W. Evans, Oct. 20, $7.00, disall'd; O. L. Schnaubert, Oct. 2, $3.00, disall'd.	
The last two bills are allowed as office expenses	$24.00
Bills for office furniture $232.75 and $150 are suspended for receipt of successor	$382.75
Bill of James Coffee, dep. coll'r, reduced to the amount actually paid per accounts current	$40.50
	$447.25
From which deduct as follows:	
Am't of vouchers allowed in excess of amount claimed for office expenses	310.50
Differences as above stated	$136.75

362.75 of this all'd for office furniture per disb'g % No. 1845.

FIFTH AUDITOR'S OFFICE,
June 15, 1867.

Examined and stated by W. Sommers.

COMPTROLLER'S OFFICE,
June 22, 1867.

Examined and reported by Alb't B. White.

204 *Supplementary.*

No. 4147.] TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE,
November 5, 1870.

I hereby certify that I have examined and adjusted an account between the United States and Robert B. Kingsbury, late collector for the second district of Texas, from October 2, 1865, to October 23, 1866, for salary, commissions, and expenses, and find him entitled to credit as follows:

By salary for said period in gross		$1,589.67
" amount collected during said period	$248,572.49	
" commissions on $105,978.24 at 3 per cent.	$3,179.35	
" " " 142,594.25 " 1 per cent.	1,425.94	
		$4,605.29
		$6,194.96

I also find him chargeable as follows:

For amounts received for office expenses per report No. 629	$5,880.79	
For tax on salary at 5 per cent. on excess of $600.00 per annum $47.69	47.69	
Expenses of administering office for said period:		
Clerks	$1,705.00	
Deputies	$3,061.04	
Rent	350.00	
Miscel	764.75	
Total	$5,880.79	
Balance due the collector	266.48	
		$6,194.96

The said balance to be paid to the late collector out of appropria-
205 tion by sec. 11, act July 15, 1870, for compensation of persons employed in insurrectionary States." Draft to be sent to Robert B. Kingsbury, Brownsville, Texas. The accounts and vouchers are herewith transmitted for the decision of the Comptroller thereon.

N. D. BARRON,
Auditor.

To the FIRST COMPTROLLER OF THE TREASURY.

$266.48.]

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE,
January 4, 1871.

I admit and certify that two hundred and sixty-six and $\frac{48}{100}$ dollars are due and to be paid as stated in the above report.

WM. HEMPHILL JONES,
Acting Comptroller.

To the REGISTER OF THE TREASURY.

No %.

NOTE: The records of the Department show that Collector Kingsbury was in office from October 2, 1865, to October 23, 1866, and there is no authority for allowing him compensation for any time beyond this.

FIFTH AUDITOR'S OFFICE,
October 5, 1870.

Examined and stated by Geo. L. Shivler.

COMPTROLLER'S OFFICE,
January 4, 1871.

Examined and reported by S. C. Clarke.

206 No. 1845.] TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE,
December 19, 1867.

I hereby certify that I have examined and adjusted an account between the United States and Robert B. Kingsbury, late collector and disbursing agent of internal revenue for the 2d district of Texas, from July 17, 1865, to December 31, 1866, and find him chargeable as follows, viz:

To warrant No 4825 dated 25th June, 1867	$923.27
" " " 4826 " " " " "	846.17
Balance due collector	6,123.13
	7,892.57

I also find him entitled to credit as follows:

By balance from comp'n report No. 629 as per Register's certificate herewith	$6,769.44	
" amount of stationery, &c., used in office per vo's	740.60	
" " " " clerk hire	" "	
" amount of charges for depositing money	323.13	
" amount of expressage on stationery	59.40	
	1,123.13	
		$7,892.57

I admit and certify that a balance of six thousand one hundred and twenty-three $\frac{13}{100}$ dollars is due to Robert B. Kingsbury, late collector 2d dist., Texas, for which let a warrant issue, with which he is to be charged, payable out of appro'n for expenses of assessing and collecting

int. rev. "per sec. 1, act approved July 23, 1866. Draft to be paid to him present, as appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

C. M. WALKER,
Auditor.

To the FIRST COMPTROLLER OF THE TREASURY.

207 $6,123.13.] TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE,
December 20, 1867.

I admit and certify that a balance of six thousand one hundred twenty-three & $\frac{13}{100}$ dollars is due and payable to the collector as stated in the above report.

R. W. TAYLOR,
Comptroller.

To the REGISTER of the TREASURY.

No account rendered.

NOTE: Bill of Fitch, Estee & Co., Sept. 18, 1865, disallowed; the items of cash box $8.00, and letter press $14.00; the latter because it does not appear in the receipt of the deputy collector as turned over to him by the late collector.

Charges for office furniture, suspended in Comp. rep. 629, are allowed herein on receipt of deputy, as received by him, to the amount of $362.75.

FIFTH AUDITOR'S OFFICE,
December 19, 1867.

Examined and stated by W. Sommers.

COMPTROLLER'S OFFICE,
December 20, 1867.

Examined by Felix Brannigan.

208 (Endorsed in the following words, to wit:) Exhibit No. 4. U. S. vs. R. B. Kingsbury. Filed Aug. 31st, 1885. Sam Hopkins, clerk.

209 And the papers above being admitted in evidence, the plaintiff, by her att'y, moved the court for her judgment for the balance due by said transcript, but the court refused to grant the same; and over the objection of the plaintiff, tendered in court, allowed the defendants to introduce a paper purporting to be the commission of R. B. Kingsbury, the principal defendant, as collector, &c.; and over the objection of plaintiff, in open court tendered, allowed the defendants to introduce in evidence a Treasury transcript of the settlement of the acc'ts of R. B. Kingsbury.

210 [Office of the Register of the Treasury—Form 1.]

Transcript certificate.

TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., December 16th, 1880.

Pursuant to section 886 of the Revised Statutes of the United States, I, G. W. Scofield, Register of the Treasury Department, do hereby certify

that the annexed copies of the reports of the Fifth Auditor of the Treasury, numbered 1420, 1470, 6771, 10253, and 13650, as admitted and certified by the first comptroller, upon the accounts of Robert B. Kingsbury, late collector of internal revenue for the second district of Texas, and of the statements of differences thereon, also itemized summary statement of his account, are a transcript from the books and proceedings of the Treasury, and that the copies of the collector's quarterly accounts hereto attached are true copies of the originals on file in this Department.

G. W. SCOFIELD,
[S. A. J.] *Register.*

Be it remembered that G. W. Scofield, esq., who certified the annexed transcript, is now, and was at the time of doing so, Register of the
211 Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, F. H. French, acting Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department, at the city of Washington, this sixteenth day of December, in the year of our Lord, 1880.

[SEAL.]
[M.] H. F. FRENCH,
Acting Secretary of the Treasury.

212 [No. 1420.] TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE,
June 6th, 1867.

I hereby certify that I have examined and adjusted an account between the United States and Robert B. Kingsbury, collector of the 2d district of Texas, from Jan. 1, 1866, to June 30th, 1866, and find him chargeable as follows:

2. To amount of assessor's lists receipted for, as per certificate of commissioner	$160,476.36
Balance due the collector	$160,476.36

I also find him entitled to credit as follows:

By amount of cash deposited, as per 15 certificates herewith,		64,550.63
Warrants covering into Treasury amount of cash deposited, viz:		
No. 163. 1st quarter, 1866	$25,000.00	
" 224. 2d " "	12,490.25	
" 749. " " "	17,060.00	
" 204. 3d " "	10,000.38	
Am't rendered herein	864,550.63	
By balance due the United States		95,925.73
		$160,476.36

213 (Endorsed in the following words, to wit:) As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon. C. M. Walker, Auditor. To the First Comptroller of the Treasury.
[$95, 925. $\frac{93}{100}$.]

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
June 7th, 1867.

I admit and certify that a balance of ninety-five thousand nine hundred twenty-five & $\frac{93}{100}$ dollars is due to the United States as stated in the above report.

R. W. TAYLER,
Comptroller.

214 *Statement of differences.*

Balance, per account, due to U. S.	92, 499. 41
" found, per adjustment, due to U. U.	95, 925. 73
Differences to collector's debit	3, 426. 32

Explained thus:

Taxes claimed as receipted for by coll'r 1st Texas—suspended —no receipt	3, 426. 32

Lists charged (*Form* 23½).

January, 1866	$77, 732. 11
February "	28, 968. 98
March "	31, 975. 13
April "	21, 800. 14
Total	$160, 476. 36

FIFTH AUDITOR'S OFFICE,
June 6th, 1867.

Examined and stated by Augustus Ward.

FIRST COMPTROLLER'S OFFICE,
June 7th, 1867.

Examined and reported by S. C. Clark.

215 No. 1470.] TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE,
June 21, 1867.

I hereby certify that I have examined and adjusted an account between the United States and Robert B. Kingsbury, collector for the 2d district of Texas, from July 1, 1866, to Dec. 31, 1866, and find him chargeable as follows:

1. To balance from last adjustment, report No.	95, 925. 73
2. " amount of assessor's list receipted for, as per certificate of Commissioner's and receipts in Comptroller's office	340, 774. 10

8. To amount of beer stamps sold per Commr's certificate..		255. 25
" amount of unassessed penalties, duties on distilled spirits, liquors, &c., reported by collector on Form 59		2. 48
" am't of duties on goods bonded for exportation but not exported		494. 40
" balance due the collector		437, 451. 96

I also find him entitled to credit as follows:

13. By amount of cash deposited as per 35 certificates herewith		184, 021. 86
22. " amount collected by Milton Stapp, 1st dist. Texas, on lists receipted for by coll'r		3, 426. 32
23. " amount of cash deposited to the credit of succ'r & included in coll'r :'p't		
24. " amount of collection		8, 554. 26
Warrants covering into Treasury amount of cash deposited, viz:		
No. 203, 3d quarter, 1866	13, 700. 75	
" 517, " " "	11, 582. 80	
" 747, " " "	4, 750. 00	
" 460, 4th " "	35, 406. 00	
" 905, " " "	11, 441. 00	
" 245, 1st " 1867	1, 573. 20	
" 568, " " "	2, 154. 80	
" 890, " " "	79, 100. 37	
" 287, 2d " "	5, 388. 00	
" 312, " " "	21, 679. 74	
	$186, 176. 66	
Less stamps	2, 154. 80	
Allowed herein	$184, 021. 86	
By balance due the United States..		241, 449. 52
		$437, 451. 96

216 (Endorsed in the following words, to wit:) As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller. C. M. Walker, Auditor, to the First Comptroller of the Treasury.

$241,449 $\frac{52}{100}$.] TREASURY DEPARTMENT,
COMPTROLLER'S OFFICE,
June 22d, 1867.

I admit and certify that a balance of two hundred and forty-one thousand four hundred and forty-nine $\frac{52}{100}$ dollars is due to the United States as stated in the above report.

R. W. TAYLER,
Comptroller.

To the REGISTER OF THE TREASURY.

217 *Statement of differences.*

Balance per account due to United States		$207,765.60
" found per adjustment due to United States		241,449.52
Differences to collectors		33,683.92

Explained thus:

1. List chg'd Form 23½ & 59 in excess of amt. credited in %c	44,270.66	
2. Abatements claimed, disallowed	330.24	
3. Taxes transferred to successor, claimed in %c, not allowed until collected	18,225.13	
4. "Amount of bonded goods removed from the district & duties paid elsewhere which have been included on assessment rolls receipted for," claimed in %c, suspended. No vouchers	236.64	
5. Beer stamps changed as per Commissioner's statement, not credited in %c	255.25	
6. Outstanding difference to collector's debit	3,426.32	
		66,744.24

PER CONTRA.

1. Amt. of C. D., No. 470, not claimed in %c, allowed herein	21,079.74	
2. " collected and passed to the credit of successor, not claimed	8,554.26	
3. " collected by Milton Stapps, 1st Texas, on lists receipted for by coll'r. (Outstanding difference)	3,426.32	
		33,060.32
Difference as above stated		33,683.92

Lists charged, 23½.

Bonded goods	$494.40
Form 59	2.48
Beer stamps	255.25
	752.13
(23½)	340,774.10
Aggregate	341,526.23
June, 1866	$3,890.97
May "	47,451.56
April "	83,591.31
July "	1,145.13

Aug. 1866		$3,506.96
Sept. "		5,469.11
Oct. "		43,253.54
Nov. "		31,383.24
Dec. "		928.47
	No list	119,736.03
218	May, June, July & Aug	417.78
	Total	$340,774.10

FIFTH AUDITOR'S OFFICE,
June 21st, 1867.

Examined and stated by Augustus Ward.

FIRST COMPTROLLER'S OFFICE,
June 22d, 1867.

Examined and reported by Alb't B. White.

219 *Supplemental.*

No. 6771.] TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE,
March 7th, 1872.

I hereby certify that I have examined and adjusted an account between the United States and Robert B. Kingsbury, late collector for the 2d district of Texas, from 188 , to October 23d, 1866, and find him chargeable as follows (under bond dated July 8th, 1865):

1.	To balance from last adjustment, report No. 1470	241,449.52
	" am't of tax on 5,500 gallons of coal oil not heretofore charged	1,100.00
	" am't of error per r'p't # 1470, in charging am't annual list, 1866	1.00
11.	" balance due the collector	$242,550.52

I also find him entitled to credit as follows:

14.	By amount of taxes abated by Commissioner's orders, Nos. 4454, 5388, 8142, 6116*	26,833.49
21.	" amount collected by successor on lists transferred to him, R. H. Lane	25,213.66
	Warrants covering into Treasury amount of cash deposited, viz: Am't of counter warrants, No. 384, 2d q'r, 1867. See Compt. rep't # 629	923.27
25.	By balance due the United States	189,580.10
		242,550.52

* NOTE.—This order (# 6116) was drawn in favor of successor, R. H. Lane, and credited to him, but the same was charged back to him per report # 4565.

220 (Endorsed in the following words, to wit:) As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon. J. B. Mann, acting auditor. To the First Comptroller of the Treasury.

$189,580.$\frac{10}{100}$] TREASURY DEPARTMENT,
FIRST COMPTROLLER'S OFFICE,
March 12, 1872.

I admit and certify that a balance of one hundred eighty-nine thousand five hundred eighty & $\frac{10}{100}$ dollars is due the United States as stated in the above report.

WM. HEMPHILL JONES,
Acting Comptroller.

To the REGISTER OF THE TREASURY.

221 *Statement of differences.*

Balance per account due to.....
" found per adjustment due to.....
Differences to collectors.....

Explained thus:

FIFTH AUDITOR'S OFFICE,
March 7th, 1872.

Examined and stated by R. B. Detrick.

FIRST COMPTROLLER'S OFFICE,
March 12th, 1872.

Examined and reported by Geo. S. Fife.

222 *Supplemental.*

No. 10,253.] TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE,
July 14th, 1875.

I hereby certify that I have examined and adjusted an account between the United States and Robert B. Kingsbury, late collector for the 2d district of Texas, from ———, 188—, to October 23, 1866, and find him chargeable as follows (under bond of July 8th, 1865):

1.	To balance from last adjustment, report No. 6771.....	189,580.10
3.	" amount collected on lists receipted for by successor in office, R. H. Lane	145,203.72
	" amount of taxes collected, not receipted for on any list.....	18,357.30
11.	" balance due the collector.....	$353,141.12

I also find him entitled to credit, as follows:

14.	By amount of taxes abated by Commissioner's orders, Nos. 5958, 5959, 5960, 5961, 5962, 5963, 7557, 7785, 7798, 8307	127,626.88
21.	" amount collected by successor on lists transferred to them, L. G. Brown, 82.25; W. A. Sayler, 3.00	85.25
	Warrants covering into Treasury amount of cash deposited, viz:	
	" am't of error per r'p't 1470, in charging assessor's lists receipted for." The same should have been charged and now is charged as collections on lists of successors, R. H. Lane, $145,203.72, and as taxes collected not receipted for, 18,357.30	209,731.23
	" am't charged per r'p't #6771, tax on coal oil, since accounted for	1,100.00
25.	By balance due the United States	14,597.76
		353,141.12

223 (Endorsed in the following words, to wit:) As appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon. J. H. Ela, auditor. To the First Comptroller of the Treasury.

$14,597\frac{76}{100}$.] TREASURY DEPARTMENT,
FIRST COMPTROLLER'S OFFICE,
July 17*th*, 1875.

I admit and certify that a balance of fourteen thousand five hundred ninety-seven and $\frac{76}{100}$ dollars is due to the United States as stated in the above report.

R. W. TAYLER,
Comptroller.

To the REGISTER OF THE TREASURY.

224 *Statement of differences.*

Balance per account due to (no acc't rendered) .....
" found per adjustment due to.....
Differences to collector's .....

Explained thus:

FIFTH AUDITOR'S OFFICE,
July 14*th*, 1875.

Examined and stated by R. B. Detrick.

FIRST COMPTROLLER'S OFFICE,
July 17*th*, 1875.

Examined and reported by S. C. Clarke.

225 *Supplemental for suit.*

No. 13650.] TREASURY DEPARTMENT,
FIFTH AUDITOR'S OFFICE,
August 20th, 1880.

I hereby certify that I have examined and adjusted an account between the United States and Robert B. Kingsbury, late collector for the 2d district of Texas, from , 188 , to October 23, 1866, and find him chargeable as follows (under bond dated July 8, 1865):

1. To balance from last adjustment, report No. 10253		14, 597. 76
3. " amount collected on lists receipted for by successor in office, R. H. Lane		28. 50
11. Balance due the collector		14, 626. 26

I also find him entitled to credit as follows:

14. By amount of taxes abated by commissioner's orders, Nos. 10100, 10206, 10856		86. 66
21. " amount collected by successors on lists transferred to them:		
W. H. Sinclair	191. 39	
L. G. Brown	1. 00	
R. H. Lane	177. 01	
		369. 40
25. By balance due the United States		14, 170. 20
		14, 626. 26

226 (Endorsed in the following words, to wit:) As appears from accounts and vouchers herewith transmitted for the decision of the Comptrollor thereon. J. H. Ela, Fifth Auditor. To the First Comptroller of the Treasury.

$14,170\frac{20}{100}$.] TREASURY DEPARTMENT,
FIRST COMPTROLLER'S OFFICE,
September 3rd, 1880.

I admit and certify that a balance of fourteen thousand one hundred and seventy and $\frac{20}{100}$ dollars is due to the United States as stated in the above report.

J. TARBELL,
Acting First Comptroller.

To the REGISTER OF THE TREASURY.

227 *Statement of differences.*

Balance per account due to the United States	207, 765. 60
" found per adjustment due to the United States	14, 170. 20
Differences to collector's credit	193, 595. 40

Explained thus:

Cr.

1. Amount credited per adjustment as cash deposited..... ..	$249,495.76		
Am't claimed per coll'rs acct. as cash deposited	227,492.75		
		22,003.01	
Caused thus:			
Am't of C. D. No. 470, 1 N. B. Galveston, dated May 13, 1867, not claimed per coll'r's acct.....	21,079.74		
" of int. rev. warrant No. 384, 2d qr. 1867, being part of balance per Comp. R'p't No. 629	923.27		
	22,003.01		
2. Am't credited per adjustment as cash deposited to the credit of successor, R. H. Lane.....		8,554.26	
3. Am't credited herein as taxes abated...	$154,547.03		
" claimed per coll'r's acct...	330.24		
		154,216.79	
4. " credited per adjustment as collections made on lists receipted for by Collector Kingsbury, viz:			
By R. H. Lane, successor.....	25,390.67		
" L. G. Brown, "	83.25		
" W. A. Saylor "	3.00		
" W. H. Sinclair, coll'r 1 dist. Texas	191.39		
		25,668.31	
5. " credited per coll'rs acct. as collections of taxes not receipted for on lists	$165,462.05		
" chg'd per adjustments	$163,589.52		
		1,872.53	
			212,314.90

Deduct:

Dr.

228	*a* Am't claimed per coll'rs acct. as taxes transferred to successor not credited per adjustment.....	18,225.13	

Note.—In lieu of credit for taxes transferred, the collector has been credited with collections made by successors on those taxes.

b. Am't ch'g'd per adjustment as collections on beer stamps	255. 25	
c. " " " " " " Form 59	2. 48	
d. " claimed per coll'r's acc't as taxes on bonded goods which have been receipted for on lists	236. 64	
		18, 719. 50
Difference as above		193, 595. 40

Of this amount $145,232.22 was subsequently receipted for by successor, R. H. Lane.

FIFTH AUDITOR'S OFFICE,
August 20th, 1880.

Examined and stated by R. B. Detrick.

FIRST COMPTROLLER'S OFFICE,
September 30th, 1880.

Examined and reported by S. C. Clark.

229 TREASURY DEPARTMENT, FIFTH AUDITOR'S OFFICE,
August 23rd, 1880.

I hereby certify that the within is a true statement of the charges and credits of the revenue accounts of Robert B. Kingsbury, late collector of internal revenue for the 2nd district of Texas, for the period from July 17th, 1865, to October 23rd, 1866, as appears from accounts and vouchers herewith transmitted for the decision of the Comptroller thereon.

J. B. MANN,
Acting Auditor.

TREASURY DEPARTMENT, COMPTROLLER'S OFFICE,
Nov'r 27th, 1880.

I admit and certify that the within is a correct statement of the items of debit and credit in the revenue account of late Internal Revenue Collector Robert B. Kingsbury, of the second collection district of Texas, continuously stated, for the period above named, under his official bond of July 8th, 1865, showing a balance due to the United States of fourteen thousand one hundred and seventy & $\frac{20}{100}$ dollars (14,170$\frac{20}{100}$), as heretofore reported.

WM. LAWRENCE,
First Comptroller.

230 Summary statement of the revenue account of Robert B. Kingsbury, late collector of internal revenue for the 2d district of Texas, from the period from July 17th, 1865, to October 23rd, 1866 under his official bond dated July 8, 1865.

DR.

1. To am't of taxes receipted for per Forms 28½, viz:		
" " " the January list, 1866.....		77, 732. 11
" " " " February " "		28, 968. 98

To am't of the March list, 1866	31, 975. 13
" " " " April " "	21, 800. 14
" " " " May " "	47, 451. 56
" " " " annual list, 1866	83, 591. 31
Total lists receipted for	291, 520. 23
2. To am't of beer stamps furnished the collector, per Form 103, for October, 1886	500. 00
3. To am't of advance collections on lists of successor, R. H. Lane	145, 232. 22
4. To am't of taxes collected not receipted for on any list	18, 357. 30
5. To am't of taxes on bonded goods collected	494. 40
6. " " " " " Form 89, "	2. 48
7. " " " " excess in accounting for beer stamps	3. 19
	8456, 109. 82

231 CR.

1. By am't of cash deposited, as per covering warrant, as follows, viz:	
By warrant No. 163, 1st qr., 1866	25, 000. 00
" " " 224, 2 " "	12, 490. 25
" " " 749, " " "	17, 060. 00
" " " 204, 3d " "	10, 000. 38
" " " 203, " " "	13, 700. 75
" " " 517, " " "	11, 582. 80
" " " 747, " " "	4, 750. 00
" " " 460, 4th " "	35, 406. 00
" " " 905, " " "	11, 441. 00
" " " 245, 1st " 1867	1, 573. 20
" " " 890, " " "	79, 100. 37
" " " 287, 2d " "	5, 388. 00
" " " 312, " " "	21, 079. 74
" " " 384, " " "	923. 27
	249, 495. 76
2. By am't of cash deposited to credit of successor	8, 554. 26
3. " " " taxes abated by the Commissioner of Internal Revenue	154, 547. 03
4. " " collected by successors on lists receipted for by Collector Kingsbury, viz:	
R. H. Lane 25, 390. 67	
L. G. Brown 83. 25	
W. A. Saylor 3. 00	
	25, 476. 92

Milton Stapp, 1st dist. Tenn	3,426.32	
W. H. Sinclair	191.39	
		3,617.71
5. By am't of beer stamps returned		60.00
6. " " " " " transferred to M. Stapp		157.50
7. " " " " " " " R. H. Lane		10,00
8. " " " discount on sales of beer stamps		20.44
Balance due the United States		14,170.20
		456,109.82

232 *Statement of differences.*

Balance per collector's acct. due the United States.....		207,765.60
" " foregoing statement due the United States.....		14,170.20
Difference to collector's cr.....		193,595.40

Explained thus:

CR.

1. Amount credited herein as cash deposited	249,495.76	
Less amount claimed per collector's ac't.....	227,402.75	
		22,003.01
Caused thus:		
The amount of the following covering warrants are not claimed per coll's act., viz:		
W #312, 2nd qr., 1867.....	21,079.74	
" #384, " " "	923.27	
	22,003.01	
2. Amount credited herein as cash deposited to the credit of successor, R. H. Lane, not claimed per act.....		8,554.26
3. Amount credited herein as taxes abated....	154,547.03	
Less amount claimed per collector's act	330.24	
		154,216.79
4. Amount credited herein as collections made on li'ts receipted for by Collector Kingsbury not *not* claimed in his act., rendered, viz:		
R. H. Lane, successor.....	25,390.67	
L. G. Brown	83.25	

W. A. Saylor.....	3.00	
W. H. Sinclair, coll'r 1 dist. Tex.....	191.39	
		25,668.31
5. Amount credited per coll'rs act., as collections of taxes not receipted for on lists..		165,462.05
Less amount charged herein as collections on lists of successor	145,232.22	
Collections not receipted for ..	18,357.30	
	163,589.52	
Add		187,252.53
Total.....		212,314.90

233 Deduct:

DR.

a. Amount claimed per coll'r's act. as taxes transferred to successor, not credited herein. See items marked (3) & (4) above.....		18,225.13
b. Beer stamps, amt. ch'd herein as furnished.....	500.	
Amount chg'd herein as excess -	3.19	
	503.19	
Less		
Amount credited herein as transferred.....	$167.50	
Amount credited herein as returned	60.00	
Amount credited herein as discount	20.44	
	247.94	
Add		255.25
c. Amount charged herein as collections per Form 59, penalties.....		2.48
d. Amount claimed per coll'r act. as taxes on bonded goods receipted for on li'ts.....		236.64
		18,719.50
Differences as above.....		193,595.40

234 (79)

No. 1.—*Collector's quarterly account, quarter ending* ***March*** 31*st*, 1866.

The United States (Office of Internal Revenue) in account with Robt. B. Kingsbury, collector 2d district of Texas.

DR.

1. To amount of cash deposited.....	30,000.00	
		30,000.00
16. To balance due the United States, viz:		
Cash.....	8,576.94	
Uncollected taxes.....	73,177.22	
		81,754.16
		111,754.16

CR.

22. By amount of taxes receipted for on Form 23½, viz:		
List for month of November, 1865..	2,922.67	
List for month of December, " ..	15,985.73	
List for month of January, 1866...	58,823.71	
		77,732.11
25. By amount of taxes collected in advance on receipt of list:		
From other sources, viz: Taxes collected before the rolls were made, and which have not been included on any list receipted for by the collector.....	34,022.05	
		34,022.05
By balance due collector.....		111,754.16

Dated at Brownsville, Texas, this 14th day of April, A. D. 1866.

ROBERT B. KINGSBURY,
Collector Second District of Texas.

235 (79)

No. 2.—*Collector's quarterly account, quarter ending June* 30*th*, 1866.

The United States (Office of Internal Revenue) in account with Robt. B. Kingsbury, collector 2d district of Texas.

DR.

4. To am't of taxes receipted for by coll'r 1st dist., Texas.....	3,426.32	
		$3,426.32
" amount reported on last quarterly acc't as collected without rolls, since included in lists receipted for to the assessor	34,022.05	
		34,022.05

16. To balance due the United States, viz:			
Cash		13,678.78	
Uncollected taxes		78,820.63	
			92,499.41
			164,498.41

CR.

17. By balance, as per last account rendered (No. 1)		81,754.16	
			81,154.16
22. " amount of taxes receipted for on Form 23½, viz:			
List for month of February, 1866		28,968.98	
List for month of March, 1866		31,975.13	
List for month of April, 1866		21,800.14	
			82,744.25
26. " balance due collector			164,498.41

Dated at Brownsville, Texas, this 10 day of August, A. D. 1866.

ROBERT B. KINGSBURY,
Collector, Second District of Texas.

236 (79)

No. 3.—*Collector's quarterly account, quarter ending Dec.* 30, 1876.

The United States (Office of Internal Revenue) in account with Robert B. Kingsbury, collector 2d district of Texas.

DR.

4. To am't of cash deposited, collected after July 1			30,033.55
16. To balance due the United States, viz:			
To cash		15,344.60	
To uncollected taxes		197,453.22	
			212,797.82
			242,831.37

CR.

17. By balance due U. S., as per last account rendered, No. 2		92,499.41	92,499.41
22. By amount of taxes receipted for on Form 23½, viz:			
List for month of May, 1866		47,451.56	131,043.87
" annual "		83,592.31	

25. By amount of taxes collected in advance of receipt of list.....		
By amount collected for which items no receipt has been given to the assessor on either Form 23½ or 59.....	19, 288. 09	19, 288. 09
	242, 831. 37	242, 831. 37

Dated at Brownsville, Texas, this 30th day of Sept., A. D. 1866.

ROBERT B. KINGSBURY,
Collector 2d district of Texas.

237 (79)

No. 4.—*Collector's quarterly account, quarter ending Dec. 31st, 1866, including subsequent amounts collected or deposited to close of office.*

The United States (Office of Internal Revenue) in account with Robert B. Kingsbury, collector 2 dist. of Texas.

DR.

4. To am't of cash deposited collected after July 1	132, 908. 57	132, 908. 57
5. " " of taxes abated by the Commissioner on % of error or insolvency under sections 34 and 44, as per orders, herewith returned as vouchers	330. 24	330. 24
6.		
7. To amount of taxes transferred to successor	18, 225. 13	18, 225. 13
To amount of bonded goods removed from the district, and duties paid elsewhere, which have been included on assessment rolls receipted for	236. 64	236. 64
16. To balance due the United States, viz:		
To cash	28, 774. 15	
To uncollected taxes	178, 991. 45	
		207, 765. 60
		359, 466. 18

CR.

17. By balance due U. S. as per last account rendered, No. 3.....	212, 797. 82	212, 797. 82

Dated at Washington, D. C., this 24th day of June, A. D. 1867.

(Endorsement.) Exhibit A. Filed April 28, 1882. W. C. Robards, cl'k.

238 And over the objection of plaintiff, in open court tendered, allowed the defendants to read in evidence three certain letters passing between the two men holding the places of Commissioner of Internal Revenue and Comptroller of the Treasury, as follows:

1. Letter from R. W. Tayler, Compt., to E. A. Rollins, Com'r of Int. Rev., date June 24, 1867.

239 [Office of the Register of the Treasury.—Form 1.]

[M. H. B.] *Transcript certificate.*

TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., October 2, 1882.

Pursuant to section 886 of the Revised Statutes of the United States, I, W. P. Titcomb, Acting Register of the Treasury Department, do hereby certify that the annexed copy of letter and endorsement thereon, filed with the accounts of Robert B. Kingsbury, late collector internal revenue 2d district, Texas, is a true copy of the original on file in this office.

W. P. TITCOMB,
[M. H.] *Acting Register.*

Be it remembered that W. P. Titcomb, esq., who certified the annexed transcript, is now, and was at the time of doing so, Acting Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, John C. New, Acting Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department, at the city of Washington, this second day of October, in the year of our Lord 1882.

[SEAL.] JNO. C. NEW,
[W.] *Acting Secretary of the Treasury.*

240 TREASURY DEPARTMENT, COMPTROLLER'S OFFICE,
June 24, 1867.

SIR: On adjustment of the account of Mr. Robert B. Kingsbury, lately acting as collector of the 2d district of Texas, there appears a balance of $241,449.52 against him, of which, according to his statement, $923.27 is for moneys collected, and the residue, $241,526.25, is the amount of lists turned over to Mr. Lane, the present collector. Mr. Kingsbury thinks, under the circumstances of his discharging the duties of collector and those attending the succession of Mr. Lane, he ought not to be held to the rule heretofore adopted, in relation to withholding compensation due an outgoing collector until the settlement and closing of his accounts as collector of the revenue.

As you are aware, the payment of compensation is thought not to be authorized in Mr. Kingsbury's case, and hence in stating his account on the form used for compensation and expenses, the sums allowed are only those actually expended in the collection of the revenue, which amount to..... 6,769.44
Deduct balance due U. S. on revenue account of collections... 923.27

Leaves due Mr. Kingsbury..... $5,846.17

241 Be pleased to inform me whether it is probable he will ultimately be liable on the lists not collected by him, and whether, in your opinion, it would be proper and just to withhold from him the above balance or any part of it.

Very respectfully,

R. W. TAYLER,
Comptroller.

Hon. E. A. ROLLINS,
Com'r of Int. Revenue.

(Over.)

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
June 24, 1867.

Respectfully returned to Hon. R. W. Tayler, 1st Comptroller, with the recommendation that $846.17 be paid to Mr. Kingsbury, and the $5,000 be withheld until his revenue acc't is settled.

E. A. ROLLINS,
Commissioner.

(Endorsed in the following words to wit:) # 3. Filded Aug. 31st, 1885. Sam. Hopkins, clerk.

242 2d. Letter from E. A. Rollins, Commissioner of Internal Revenue, to R. W. Tayler, Comptroller, & dated Dec. 16, 1867.

243 [Office of the Register of the Treasury.—Form I.]

[M. H. B.] *Transcript certificate.*

TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., October 2, 1882.

Pursuant to section 886, of the Revised Statutes of the United States, I, W. P. Titcomb, acting Register of the Treasury Department, do hereby certify that the annexed copy of letter filed with the accounts of Robert B. Kingsbury, late collector internal revenue 2d district Texas, is a true copy of the original on file in this office.

W. P. TITCOMB,
[M. H.] *Acting Register.*

Be it remembered that W. P. Titcomb, esqr., who certified the annexed transcript, is now, and was at the time of doing so, Acting Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof I, John C. New, Acting Secretary of the Treasury of the United States, have hereunto subscribed my name and caused to be affixed the seal of this Department, at the city of Washington, this second day of October, in the year of our Lord 1882.

JOHN C. NEW,
[W.] *Acting Secretary of the Treasury.*

244 TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, December 16, 1867.

R. P. Kingsbury assumed the duties of collector of the 2nd district, Texas, on the 2nd Oct., 1865, and being unable to subscribe to the oath required by act of Congress, July 2d, 1862, retired therefrom on the 23d Oct., 1866, during which time he collected and deposited to the credit of the United States the sum of $257,126.75, and had a balance of uncollected taxes charged against him amounting to $194,356.14. This amount his successor, Collector Lane, declines to receipt for, although repeated' urged to do so. From all the facts connected with the case it appears that Mr. Kingsbury has used proper diligence in the discharge of his duties while acting as collector, and I therefore recommend that he be paid the amount found due on the adjustment of his compensation account, No. 629, the same being for expenses actually incurred in administering the office of collector.

E. A. ROLLINS,
Commissioner.

Hon. R. W. TAYLER,
Comptroller of the Treasury, Washington, D. C.

(Endorsed in the following words, to wit:) Filded Aug. 31st, 1885 Sam. Hopkins, cl'k.

245 3d. A letter from E. A. Rollins, Commissioner of Internal Rev., to R. W. Taylor, Comptroller, date December 18, 1867.

246 [Office of the Register of the Treasury. Form 1.]

[M. H. B.] TREASURY DEPARTMENT, REGISTER'S OFFICE,
Washington, D. C., October 2, 1882.

Pursuant to section 886 of the Revised Statutes of the United States, I, W. P. Titcomb, Acting Register of the Treasury Department, do hereby certify that the annexed copy of letter and endorsements thereon filed with the accounts of Robert B. Kingsbury, late collector internal revenue, 2nd district Texas, is a true copy of the original on file in this office.

W. P. TITCOMB,
Acting Register.

[M. H.]

Be it remembered, that W. P. Titcomb, esq., who certified the annexed transcript, is now, and was at the time of doing so, Acting Register of the Treasury of the United States, and that full faith and credit are due to his official attestations.

In testimony whereof, I, Jno. C. New, Acting Secretary of the Treasury of the United States, have hereunto subscribed my name, and caused to be affixed the seal of this Department, at the city of Washington, this second day of October, in the year of our Lord, 1882.

[SEAL.] JNO. C. NEW,
Acting Secretary of the Treasury.

[W.]

247 TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, December 18, 1867.

SIR: In reply to your letter dated to-day, inquiring if there is any probability that Mr. Kingsbury, late collector of the 2nd district of Texas, will be relieved by abatements of taxes not collected by him, and not turned over to his successor, I have to say there are claims in this office which have been allowed, amounting to $8,749.16, for which there will soon be issued an order of abatement.

There was also claimed upon the same schedule $19,150.84, which was rejected, but if presented again accompanied with satisfactory evidence that the same should be abated, it will be allowed and the amount credited to Mr. Kingsbury.

Very respectfully,

E. A. ROLLINS,
Commissioner.

Hon. R. W. TAYLOR,
Comptroller.

[Endorsement.]

Of the $19,150.84 not yet allowed, one item, $180.50, against Francis Ytrina, which is claimed to be an illegal assessment, the collector was directed to suspend proceedings for its collection and the subject was referred to the assessor.

J. J. KIMBALL,
Clerk Int. Rev. Office.

DEC. 18, 1867.

248 COMPTROLLER'S OFFICE,
Dec. 18, 1867.

This paper with the certificate of diligence from the Commissioner will authorize the payment of the expenses found due Mr. K.

R. W. T.

Filded August 31st, 1885.

SAM HOPKINS, *C'k.*

249 The court also allowed the defendants on trial of the cause to introduce in evidence a witness, W. J. Phillip, one of the defendants in the case, and permitted the said W. J. Phillips to testify and say over the objection of plaintiff tendered in open court.

That the principal defendant, R. B. Kingsbury, in this case is insolvent, and a very poor man—too poor to come to this court—that he gets his support from his son; that about last of July, 1866, both he (W. J. Phillips) and R. B. Kingsbury were informed that they, he as assessor and R. B. Kingsbury as collector of taxes of the 2d district of Texas, had not been confirmed.

That when a successor to R. B. Kingsbury did come and take charge of the office he refused to receipt for the rolls of taxes Kingsbury had in his hands, but the rolls were in the office, and taxes collected thereon.

And the court having heard the above evidence from the defendants, over the objections of the plaintiff in open court tendered, proceeded to render final judgment in favor of the defendants, and that they go hence and c, &c., without day, & that the United States take nothing, &c., &c., and to all of which plaintiff in open court excepted & now tenders bill of exceptions, &c., &c.

To certify which I do hereby attach my official signature the 7th day of September, A. D. 1885.

E. B. TURNER,
Judge.

250 Before signing I make the following a part of the bill tendered by plaintiff:

The bond and Treasury transcript above referred to as offered in evidence by plaintiff was not admitted without objection on part of defendants. The defendants, and especially the sureties on Kingsbury's bond, made the following objections to the bond:

1. Because it is not the bond of any officer known to the law.

2. Because it is not the bond declared on in plaintiff's pleadings.

3. Because it is not admissible for the purpose of establishing any liability against the sureties.

4. Because the exhibits hereto offered in evidence as a part thereof show that the principal obligor, Kingsbury, was ineligible to hold any office under the Constitution and laws of the United States.

To the transcript.

Because the nature, character, substance, or purport of said statement is not set forth in plaintiff's petition, and said statements neither as an exhibit to said petition nor otherwise constitutes, in whole or in part, any cause of action against these defendants as sureties of said Kingsbury, and for the further reason that in and by said "Exhibit A" these defendants as sureties and each of them are sought to be charged with and made liable for tax-rolls and monies collected upon tax-rolls of one R. A. Lane, who by said "Exhibit A" is styled and spoken of as the "successor" in said office of collector of internal revenue, of the principal defendant, Kingsbury.

251 2. Because said transcript is not admissible under the pleadings as evidence against defendants.

3. Because the purported statements of account therein are confused and contradictory, and not such an account as defendants can meet and defend against.

4. Because in the certificate in said transcript it purports to certify to the account from July 17, 1865, to October 23d, 1866, and yet the account itself relates to transactions & items both before and after the period mentioned, & so confuses these prior items & transactions with transactions & items covered by said period that defendants, as sureties, cannot intelligibly meet and defend against same with respect to their liability as sureties.

5. It contains items and matters not proper to be certified to in such a transcript.

With respect to the evidence of *of* W. J. Phillips I qualified its admission with the statement made at the time, that as there was no jury in

the case, I should hear the evidence for what it might be worth, and in rendering judgment only give it such weight and influence as it might legally be entitled to.

I further certify that the statements contained in the foregoing, which appear after my signature to pl'ff's bill of exceptions, recites truly what occurred on the trial of the cause. To certify all of which, I hereto
252 set my official signature this the 7th day of Sept., A. D. 1885.

E. B. TURNER,
Judge.

(Endorsed in the following words, to wit:) No. 230, Brownsville. No. 1996, Austin. The United States vs. R. B. Kingsbury et al. Bill of exception. Filed Sept. 8th, A. D. 1885. Sam Hopkins, clerk.

253 In the honorable United States circuit court, for the 5th circuit & western district of Texas, holding sessions in the city of Austin, Texas, at its August term, 1885.

UNITED STATES OF AMERICA,
vs.
R. B. KINGSBURY ET AL. } No. 230—1996.

To the honorable MORRISON R. WAITE,
Chief-Justice of the Supreme Court of the United States of America:

Now appears the United States by her attorney, and most respectfully says, that on the 3rd day of September, A. D. 1885, the honorable United States circuit, for the western district of Texas, sitting at Austin, in said district, in the above numbered and styled cause, did render its final judgment that the plaintiff take nothing by her suit and that defendant go hence without day, and further that there is manifest error and wrong in said aforesaid judgment, aforesaid to her great damage, and further she most humbly prays for her writ of error to the said honorable United States circuit, and that the said aforesaid final judgment be reversed, set aside, and in all things annulled, and that defendants have notice hereof.

A. J. EVANS,
U. S. Att'y, Att'y for Pl'ff.

(Endorsed in the following words, to wit:) No. 230—1996. The United States vs. R. B. Kingsbury et al. Petition for writ of error. Filed Sept. 8th, 1885. Sam Hopkins, clerk.

254 In honorable United States circuit court for 5th circuit & western district of Texas, holding sessions in the city of Austin, at its August term, A. D. 1885.

UNITED STATES
vs.
R. B. KINGSBURY. } No. 230—996.

Now comes the plaintiff in the above cause and assigns error in said cause as follows, to wit:

1st. The court erred in not granting plaintiff her judgment upon her evidence of transcript of bond and Treasury transcript.

2nd. The court erred in admitting evidence for defendants. See bill of exceptions.

3rd. The court erred in granting defendants judgment.

A. J. EVANS,
U. S. Att'y, Att'y for Pl'ff.

(Endorsed in the following words, to wit:) 230—1996. The United States vs. R. B. Kingsbury et al. Assignment of error. Filed Sept. 8th, 1885. Sam Hopkins, clerk.

255 United States of America to Robert Bates Kingsbury or J. B. Wells, jr., his att'y of record, Richard N. Lane, and Simon Mussina, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the second Monday of October next, pursuant to a writ of error, filed in the clerk's office of the circuit court of the United States for the western district of Texas, 5th circuit, sitting at Austin, wherein the United States is plaintiff and you are defendants in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable Morrison R. Waite, Chief-Justice of the said Supreme Court of the United States, this 10th day of Sept., in the year of our Lord one thousand eight hundred and eighty-five.

E. B. TURNER,
U. S. Judge.

Test, with seal of court, at Austin this 10th day of Sept., A. D. 1885.

SAM HOPKINS,
Clerk.

256 (Endorsed in the following words, to wit:) Original. In Supreme Court of the United States. United States, pl'ff in error, vs. Robert B. Kingsbury et al., def'ts in error. Or'g'n'l. Citation in error. Issued 10th day of Sept., A. D. 1885. Sam. Hopkins, clerk. Came to hand this the 26th day of September, A. D. 1885, at 6 o'clock p. m. Executed the 28th day of September, A. D. 1885, delivering to Robert Bates Kingsbury in person a true copy of this writ, said copy being delivered to said Kingsbury at Brownsville, Cameron County, State of Texas, & west. dist. of Texas. S. D. Jackman, U. S. marshal western district of Texas, by John M. Haynes, d'p'ty.

257 United States of America to Robert Bates Kingsbury, Wm. J. Phillips, Richard N. Lane, Simon Mussina, or A. J. Peeler, his attorney of record, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the second Monday of October, next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the western district of Texas, 5th circuit, sitting at Austin, wherein the United States is plaintiff and you are defendants in error, to show cause, if any there be, why the

judgment in the said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Hon. Morrison R. Waite, Chief-Justice of the Supreme Court of the United States, this 10th day of Sept., in the year of our Lord one thousand eight hundred and eighty-five.

[SEAL.] E. B. TURNER,
U. S. Judge.

Test with seal of court, at Austin, this 10th day of Sept., A. D. 1885.
SAM. HOPKINS,
Clerk.

258 (Endorsed in the following words, to wit:) Original. In Supreme Court of the United States. United States, pl'ff in error, vs. Robert B. Kingsbury et al., def't in error. Citation in error. Issued 10th day of Sept., A. D. 1885. Sam. Hopkins, clerk. Came to hand, at Austin, Texas, this 14th day of Sept., 1885, and executed same day at same place, by delivery to the within-named A. J. Peeler, att'y of record for Simon Messina, defendant in error, in person a true copy of this writ. S. D. Jackman, U. S. marshal W. D. Texas, by John H. Traynham, deputy.

259 United States of America to Robert Bates Kingsbury, Wm. J. Phillips, Richard N. Lane, and Simon Mussina, or his attorney of record, A. J. Peeler, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the second Monday of October next, pursuant to a writ of error filded in the clerk's office of the circuit court of the United States for the western district of Texas, 5th circuit, sitting at Austin, wherein the United States is plaintiff and you are defendants in error, to show cause, if any there be, why the judgment in said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Hon. Morrison R. Waite, Chief-Justice of the said Supreme Court of the United States, this 10th day of Sept., in the year of our Lord one thousand eight hundred and eighty-five.

E. B. TURNER,
U. S. Judge.

Test with seal of court, at Austin, this 10th day of Sept., A D. 1885.
SAM. HOPKINS.

260 (Endorsed in the following words, to wit:) Original. In the Supreme Court of the United States. United States, pl'iff in error, vs. Robert B. Kingsbury et al., defendants in error. (Orig'l.) Citation in error. Issued 10th day of Sept., A. D., 1885. Sam. Hopkins. Marshal's return. Came to hand at Austin, Texas, this 14th day of September, 1885, and executed same day, at same place, by delivering to the within named A. J. Peeler, att'y of record for R. N. Lane, defendant in error, in person, a true copy of this writ. S. D. Jackman, U. S. marshal/ W. D. Texas, by John H. Traynham, deputy.

261 United States of America. To Robert Bates Kingsbury, W. J. Phillips, Cha's Worthington, Richard N. Lane, Samuel F. Barr, and Simon Mussina, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the United States for the western district of Texas, 5th circuit, sitting at Austin, wherein the United States is plaintiff and you are defendants in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the honorable Morrison R. Waite, Chief-Justice of the said Supreme Court of the United States, this 10th day of Sept., in the year of our Lord one thousand eight hundred and eighty-five.

Test with seal of court, at Austin, this 10th day of Sept., A. D. 1885.

SAM. HOPKINS,
Clerk.

(Endorsed in the following words, to wit:) Original. In Supreme Court of the United States. United States, pl'ff in error, vs. Robert B. Kingsbury et al., def'ts in error. Citation in error. Is-
262 sued 10th day of Sept., A. D. 1885. Sam. Hopkins, clerk. Came to hand at Austin, Texas, this 14th day of September, 1885, and executed same day at same place by delivering to the within named A. J. Peeler, att'y of record for Wm. J. Phillips, defendant in error, in person, a true copy of this writ. S. D. Jackman, U. S. marshal W. D. Texas, by John H. Traynham, deputy.

263 I, Sam. Hopkins, clerk of the circuit court of the United States in and for the western district of Texas, at Austin, certify that the foregoing 262 written pages contain a full and true transcript of the record and all the proceedings had as they appear of file and of record in this court in case No. 230, entitled the United States *vs.* Robert Bates Kingsbury, et als.

In witness whereof I have hereunto set my hand & seal of court at Austin this 5th day of April, A. D. 1886.

[SEAL.] SAMUEL HOPKINS,
Clerk.

264 UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the honorable judges of the circuit court of the United States, 5th circuit, in and for the western district of Texas, holding sessions at Austin, in said district, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in said circuit court before you, between United States, who is plaintiff, and Robert Bates Kingsbury, Wm. J. Phillips, Richard N. Lane, & Simon Mussina, who are defendants, No. on the docket of said circuit court of the United States, sitting at Austin, in said district, a manifest error hath happened, to the great dam-

age of the said United States, who is plaintiff in error herein, as by her complaint appears.

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under your seal, distinctly and openly you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next in said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United should be done.

Witness the honorable Morrison R. Waite, Chief-Justice of the Supreme Court, the 8th day of September, in the year of our Lord one thousand eight hundred and eighty-five, and seal our said circuit court at Austin, in the one hundred and tenth year of the Independence of the United States.

[SEAL.] SAM. HOPKINS,
Clerk of the Circuit Court of the United States,
West. Dist. of Texas, at Austin.

Allowed by E. B. TURNER,
U. S. Judge.

(Indorsed:) In Supreme Court of the United States. The United States, pl'ff in error, vs. Robert B. Kingsbury et al., def'ts in error. Writ of error to Supreme Court of the United States. Issued 10th day of Sept., A. D. 1885. Sam. Hopkins, clerk.

(Indorsement on cover:) No. 258. The United States, plaintiff in error *vs.* Robert Bates Kingsbury, William J. Phillips, Richard N. Lane, and Simon Mussina. W. Texas C. C. U. S. Filed November 3, 1886.